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ABSTRACT

State officials attempting school finance reform are faced with the three interlocking problems of school finance, property taxation, and the crisis of central cities. The three basic issues to be considered in dealing with these problems are equity, adequacy, and efficiency. This report examines these school finance problems and critiques proposals for remedying them. (JF)

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PROBLEMS AND ISSUES OF PROPERTY TAXATION IN SCHOOL FINANCE REFORM

By

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I. BASIC ISSUES IN SCHOOL FINANCE REFORM

In considering the topic of this paper we are confronted with three problems, each of which is a complex of difficult and largely unresolved controversies. Moreover, all of these problems interact in an exceedingly intricate fashion, and the solution, or lack of it, is profoundly significant for the others. These major problems are school finance, property taxation, and the crisis of the central cities.

There are three basic issues to be considered in connection with school finance reform: equity, adequacy, and efficiency.

Equity Issues

Equity -- the most important of these issues -- should be considered with respect to nondiscrimination both among school children and among taxpayers, and also from the standpoint of the incidence of various taxes that could be utilized for financing schools.

Equity is certainly not a new issue but it has been brought to a sharp focus within the past few years by activist groups and court decisions. The court decisions, starting with Serrano v. Priest in California in August, 1971, and followed by several other decisions in state courts and one in a federal court in Texas, Rodriguez v. San Antonio Independent School District, have had a dramatic effect in focusing attention on the very great intrastate inequities in financing schools in a number of states.

Since these decisions have been written about at length, it seems unnecessary to discuss them in this paper, although there will be some further comments on them in Section V.

Pattern of Local Units

Two major types of inequities are being discussed: (1) grave disparities in the educational advantages offered children in different school districts within the same state; and (2) very great differences in the school tax burdens borne by taxpayers in these different districts. A third, and somewhat artificial, inequity among school districts has been emphasized in some recent school finance studies where recommendations have been made for equalizing school financing opportunities among school districts, without too much consideration of whether such equalization would carry over to the children and taxpayers. These efforts seem to imply that equality of opportunity for the impersonal school district is considered more important than equal educational advantages for school children and equal tax burdens for taxpayers. Such recommendations appear to be bypassing the problem and sacrificing the two important equity goals.

Inequities for both school children and taxpayers arise largely because most states are divided into many local governmental units and the bulk of school revenue is derived from property taxes imposed by these local units. Taxable wealth per child, and also interest in and emphasis on education vary sharply in the different units with the result that some taxpayers are far more heavily taxed than others and some children have far greater

educational opportunities than others. Moreover, because of wealth disparities, the most heavily burdened taxpayers are not necessarily in the districts with the best schools.

Nature of Tax

The above are inequities resulting from the pattern of local units. There is another inequity resulting from the nature of the property tax and its incidence. Who pays the property tax? The homeowner has little doubt on that score. It is true that tax economists have generally held that the part of the real estate tax that falls upon the land is capitalized. In simplified form this theory holds that a prospective buyer will take taxes into consideration in buying a property. For example, if he has the opportunity to purchase either of two identical properties, but property A is subject to a tax that is twice as heavy as that on property B, he will pay less for A by the capitalized amount of the tax differential. For this reason he will buy himself free of the tax, since if he were to purchase B he would pay a larger purchase price and would be saddled with additional mortgage costs (or, in the absence of a mortgage, with a corresponding loss of capital return).

This situation prevails, however, only so long as the tax rate remains unchanged. If the rate is increased he suffers a capital loss, equivalent to the capitalized amount of the increase.

Certainly the more intelligent buyer does carefully consider the tax burden, but the choice is seldom so clearcut as in the example, nor are buyers and sellers usually as well informed on property values, or in as free position to bargain, as the illustration indicated. It may be assumed, therefore, that the capitalization process works crudely and imperfectly.

Moreover, it is the exception rather than the rule for the tax burden to remain unchanged for an appreciable number of years. In most units it is subject to annual vacillation, almost always upwards. Also, assessments are likely to be increased, and assessment ratios are by no means certain.

Much attention is currently being concentrated on the issue of regressivity and the term is loosely used to indicate regressivity as the tax applies to different income categories -- which is the customary use of the word -- and also regressivity as between governmental units and different per capita incomes or per capita wealth within such units; and further in relation to governmental expenditures (particularly for schools) per citizen or per child of school age. This lack of precision results in conflicting and also imprecise analysis.

But even if regressivity is considered only in the traditional sense of a tax burden that takes a larger percentage of income from low-income groups and tends to bear less heavily as income increases, the effort to ascertain the regressivity (or progressivity) of the tax is largely meaningless. For such efforts to have any validity there must be two prerequisites: first, a generally accepted theory concerning the incidence of the tax; and second, generally uniform administration. Even if economists were to agree on incidence -- and they don't -- the administration of the tax is too erratic to permit valid conclusions. This is particularly true if the tax is considered on a statewide or nationwide basis. Numerous surveys that have been made

over many years indicate that all too frequently uniformity in assessment standards doesn't even prevail within a local taxing area, and even less among different areas and different states. Some instances of this will be given in Section II of this paper.

Further complicating the issue, some studies concentrate on property tax regressivity in relation to tenants. If it is true, as has been implied by some writers, and it seems plausible that owners of luxury apartments are able to shift a larger part of maintenance costs, including taxes, to tenants than are owners of slum properties, the property tax borne by tenants would appear to be somewhat progressive -- at least temporarily -- so far as tenants go. But if owners of luxury apartments are, for the most part, in a higher income bracket than owners of shabby apartments, this same line of reasoning would make the property tax regressive on the little landlord, who may own a modest building and who may live in the basement apartment, while renting out the other floors. Also, what is the long-run effect of this element of progressivity for tenants and regressivity for landlords.

Probably a sustantial portion of the modest rental units are owned by persons who are themselves in relatively modest circumstances. When taxes and other maintenance costs make the going too rough for them to sustain, some of them are likely to abandon the property. This has become a problem of some magnitude in some of the central cities. As a result tenants are confronted with a shortage of housing that they can afford to rent.

Although we can quickly become lost in a morass of complex considerations in trying to measure the regressivity of the property tax, there seems to be no question but that it does constitute a heavy burden upon taxpayers in areas with a high effective rate. By comparison we have to recognize that an income tax does not fall upon those who have no income; nor even on those with very modest incomes. Moreover, sales taxes, burdensome as they are in some places, will not force an indigent homeowner to lose his home.

Adequacy of School Support

The question of whether school funds are adequate is one that will never be settled. We may just as properly ask: Is crime protection adequate? Are public health facilities adequate? What about recreation? Transportation? Sanitation? And so on through a long list of governmental services.

Such considerations are at the very crux of the theory of public expenditures. This was pointed out many years ago by Professor Henry Carter Adams:

> "The claim of a definite appropriation is relative, and it is not until the function which it is intended to serve is fitted into the general scheme of social activities that the strength of this claim can be measured. In view, therefore, of the persistence with which the question of governmental functions asserts itself, one is justified in the conclusion that it holds the key to the theory of public expenditures." 1

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1 Henry Carter Adams. The Science of Finance. New York, 1898. p. 54.

Whether or not school districts are independent, a rational society must choose its goals. Despite our affluence, we are still confronted with a scarcity of public funds for demonstrable needs. Hard choices must be made; and even though budgetmaking may be extraordinarily painstaking, it is likely that advocates of many, or most, functions will protest the inadequacy of their support.

> "The budget maker faces a tremendous problem. He must balance municipal functions, one against the other. Whether consciously or not, he determines whether he shall permit a few more houses to burn down, pickpockets to thrive, babies to die, traffic accidents to result, paupers to suffer, illiterates to remain untaught or children to miss their chance to play. All of these evils and many more are present. None of them can be entirely stamped out, but within limits all will diminish as appropriations to fight them are increased." [2]

We must, moreover, also seriously consider at what point the advantages in additional public spending are outweighed by the disadvantages of additional tax burdens.

Cost versus Quality in Education

A further question arises: Do additional expenditures always mean additional satisfactions from public goods -- whether for education or for some other function? In the wake of the school finance decisions, some educators are now raising a question as to whether quality is dependent upon cost. This represents a remarkable right about face for educators, who for more than half a century have been equating educational quality with educational expenditures. In 1920 there was published An Index Number for State School Systems.[1] Five of the ten measures utilized to grade schools were based on expenditures. Back in the 1930's a distinguished professor of public finance from Teachers College, Columbia University, told this writer: "New York City spends the most, and New York City has the best."

In the efforts that were made in the 20's and 30's to measure the quantity and quality of governmental services, educators always advanced expenditure as the yardstick for measuring the quality of educational services.

It wasn't then, and it still isn't, a reliable yardstick. Expenditure is never the decisive measure of quality. If it were, emphasis on economy, efficiency, and management would be a waste of time. We shall never develop satisfactory standards for measuring the efficiency of school systems until we eliminate expenditure as a measure. We can never find out how cost affects the quality of a product if we first assume that quality is determined by the amount of expenditure on the product. That type of circular reasoning gets nowhere.

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1 Leonard P. Ayres. New York, 1920.

2 Mabel L. Walker. Municipal Expenditures. Baltimore, The Johns Hopkins Press, 1930. p. 10.

It should be possible to devise objective tests measuring the progress of elementary school children in at least basic reading and mathematical skills; of secondary schools in more advanced skill; and of the proportion of children in the community that complete (with creditable skills) the various levels of schooling. The efficiency of a school system should be gauged by a measure of the skills when children enter the school and the progress made during the educational process. Otherwise, schools in university areas might rate high scores, even though run with relatively little effort or efficiency, while far more painstaking and efficient schools in other areas would be downgraded.

Nevertheless, despite all the difficulties in rating a school's efficiency and the sober recognition that it takes more than money to produce a good school, it must be admitted that a school that is too poorly financed to have trained and efficient teachers, an adequate building, well planned and well staffed library and laboratory facilities, and sufficient medical aid to determine whether physical defects are creating learning disabilities, cannot perform its functions satisfactorily. The current effort on the part of some persons to weaken the thrust of the recent court decisions by raising a question as to the relationship of expenditures to quality in education could be turned against them. If expenditures do not have a significant effect in producing quality, why then are taxpayers being so heavily penalized by high taxes for school financing.

Efficiency of School Administration

Serious questions are now being raised concerning the efficiency of the public schools. The hullabaloo over "Why Johnny can't Read" and the startling realization that some high school graduates have been made ready neither for college nor for work, coupled with rapidly escalating school costs, are disturbing many thoughtful persons. It now appears that the question of school efficiency will be heard in the courts. There is pending in San Francisco a lawsuit filed by a 18-year old in November, 1972. He is asking for more than $1 million from the city school system becuase, as he argues, he graduated from high school with a fifth-grade reading ability, qualifying him only for unskilled labor. [1]

The President's Commission on School Finance included a chapter on "Making the Educational System Accountable" in its final report. It says:

> "Public functions, such as education, health, welfare, environmental control, transportation, and public safety are placing increasing demands on public treasuries. Education, therefore, can only seek to share in the total funds which become available for all purposes. If education is to compete successfully with these other functions, its proponents must be able to demonstrate that whatever funds are provided are achieving the desired results. This is extremely difficult because of the intangible nature of its product -- learning. It is vital, therefore, that local school systems and State agencies work to develop better methods for measuring achievement and improvement." [2]

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1 U.S. News & World Report, September 3, 1973. p. 30; The N.Y. Times, September 17, 1973.

2 Schools, People & Money. The Need for Educational Reform. 1972, p. 58

The Commission declared that there is now seriously lacking the ability to determine how well students, as individuals, benefit from the school experience. It recommended that state governments establish statewide evaluation systems to measure the effectiveness of educational programs.[3]

The New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education commented as follows on school achievements:

"The close parallel between school success and the child's socio-economic origin suggests that something is wrong with the way our educational system operates.....Equality in educational opportunity does not exist for the students of New York State. We conclude that in schools in which differences in the average performance levels of social class, racial and geographic groups exist, public policy should be directed toward their elimination."[4]

Performance Standards

The New Jersey Committee on Tax Policy advocated that the state establish performance standards for evaluating the state's school system. It recommended that the Commissioner of Education be required to develop and publish a periodic evaluation of the public school system and that the Commissioner should also be required to develop appropriate remedies where a district "fails continually to show sufficient educational progress and to report publicly his recommendations and actions under this procedure."[5]

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3 Ibid., p. 58

4 P. L. 29.

5 Part III. Service Levels and State Aids. 47-8, 49.

"The schools must be held accountable for their product," was the verdict in a publication of the Committee for Economic Development in 1971.[1]

When performance standards are developed and accepted, we can be reasonably sure that they will not follow the pattern laid down by Leonard P. Ayres in 1920 of gauging schools largely by the amount of their expenditures.

Overall View of the Fiscal Crisis

Basic elements in the current fiscal crisis of the schools have been succinctly stated by the New York Commission:

> "The widespread talk of a fiscal crisis in schools is shorthand for some deep-seated problems, all very real. First and foremost is the fiscal crisis in the state itself with expenditures currently exceeding revenues. Next is the lack of adequate federal support for education. Fragmentation is another problem; there are simply too many small districts. The imbalance of revenue sources within the state is another; there is an inordinate reliance on the local property tax, which is rapidly reaching the point of diminishing returns. A fifth problem is a crisis in educational fiscal management, graphically illustrated by the inability of districts in their collective bargaining activities during the past decade to achieve increases in productivity in return for substantially higher salaries. Finally, education is the nation's second largest public activity (national defense is the largest), yet in the midst of the fiscal crisis, the problem of balancing the education budget is still left to the local district, the weakest unit of government because of its dependence on an inelastic tax that already bears a disproportionately large share of the over-all tax burden. Of the alternatives available to the people of New York, we believe full state funding offers the best avenue toward a solution of the majority of these problems."[2]

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1 Education for the Urban Disadvantaged. p. 61.

2 Op. cit., p. 2. 87.

II. INTERLOCKING PROBLEMS OF PROPERTY TAXATION

Paying for public schools is the most difficult state and local financing problem. This is partly due to the fact that education is the most costly state and local function. The problem results even more, however, from anchoring educational support overwhelmingly to the local property tax -- the most unpopular and burdensome of all current taxes.

The case for tying any expenditure to a particular tax is a weak one and can be justified only with respect to taxes and functions that are clearly related on a benefit basis. That is definitely not true in connection with schools and the property tax. Many persons benefit from schools that do not pay taxes in the community, and many persons heavily burdened by school property taxes receive scant, if any, identifiable benefit from the public schools. The benefits of education are diffused throughout the population, by no means equally, however. Moreover, children educated by one set of taxpayers may, and frequently do, migrate later to other communities which may have widely different educational services.

Major Defects in Property Taxation

There are five major defects in property taxation and all result in inequities. They are (1) assessment inequalities, (2) inequities and inefficiencies resulting from fragmentation of local units, (3) inequities resulting from exemptions and concessions, (4) substantial failure to tax windfall and speculative gains in real estate transfers, and (5) the residual nature of the tax burden.

Inequalities in Assessment

In both theory and law real property is supposed to be taxed at a uniform percentage of full market value. In many states property is supposed to be taxed at full value. Local assessors -- frequently elected and sometimes with little or no training in assessing -- determine the value of the property. Sometimes the law permits property to be assessed at a ratio that is less than 100 percent of full value. In some other cases, assessors assume extra-legal -- actually illegal -- authority and set ratios at different percentages according to their own personal whims and biases. In still other cases, assessors -- particularly those in small units -- do not possess the technical know-how to make valid assessments. In still other cases property is reassessed so infrequently that major discrepancies may result. In an area of declining values, the lag in reassessments causes many properties to be substantially overassessed, while in areas of increasing values many properties may be under-assessed for years. A further discrepancy results when the new property owner is assessed at full market value, as contrasted with the long-standing assessment of other owners.

For these many reasons, therefore, assessments within the same taxing jurisdiction may, and frequently do, vary considerably. Students of property taxation have been exposing glaring assessment inequities for more than half a century, and the output of such studies continues. Drs. Frederick L. and Edna T. Bird comment as follows in their monumental study made a decade ago for the Advisory Commission on Intergovernmental Relations:

"That gross inequalities in assessing are widespread is universally recognized. This condition is so ancient that it tends to be taken for granted as an inherent characteristic, and State and national studies keep reaffirming its continuance. Over the past 50 years notable advances have been made in the organization and methods of State and local fiscal administration, but in very many areas assessment administration has not kept pace with this progress...."

"A somewhat exclusive characteristic of property tax administration is that few officials feel under obligation to enforce the tax law as written. In some States, in fact, compliance by the assessors with the constitution and statutes would be a cause for general consternation. The average assessor makes himself a sort of one-man legislature. He -- not the State constitution and the State legislature -- defines local taxing and borrowing power and determines the value of a veterans' or homestead tax exemption by the level at which he decides to assess property...."[1]

The following comments from writers in various states indicate the current prevalence of this defect in the property tax.

Pennsylvania State Senator Michael A. O'Pake, who has been actively promoting reform of property tax administration in that state, has pointed out that although, according to the State Equalization Board, the value of taxable property in the state is $47.9 billion, it is only $20.1 billion according to local assessments. This is because state law and custom provide for fractional ratios of value, and these ratios vary from county to county. For example, Allegheny County has a ratio of 54 percent while Wayne County has only an 18 percent ratio. Therefore, tax rate comparisons between counties are meaningless.

"Compounding citizen confusion is the added legal authority for cities of the third class to have their own assessment offices and, in effect, their own ratios. Less than half the State's cities do this, but it means that in these cities, citizens are subjected to tax rates based on different assessments for county and city purposes, in turn, established by using different ratios. A special area of confusion exists in those areas where school districts cross county lines...."

"The multitude of assessment laws, with varying procedures, dates, ratios and assessment offices, is in certain need of reform. It is not enough though, to consolidate these into one act without coming to grips with the root problem of present law -- the lack of a State-wide uniform assessment ratio. That need is brought into sharp focus by recent court decisions across the Nation...."[2]

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1 Frederick L. and Edna T. Bird. The Role of the States in Strengthening the Tax. Report prepared for Advisory Commission on Intergovernmental Relations. 1963. Vol. 1. p. 3,4 .

2 "Property Tax -- Need for Reform." Pensylvania. February, 1973.

The Governor's Commission on Tax Reform in Connecticut said that the Commission believes that inequalities in assessment constitute the most serious of all the problems which have been allowed to accumulate in the many years of property tax administration and that assessment inequalities exist both within and among the towns.[1]

The New Jersey Tax Policy Committee emphasized that intra-district equalization is the key to a fair distribution of the tax burden. "It is the process of seeking to assure that neighbors and other property owners having like value properties will be assessed alike."

The Committee pointed out that there is no substitute for a sound original assessment. It emphasized the use of sales ratio data as a check on the extent to which the assessment ratio for each individual sale differs from the average, and an analysis to determine whether or not properties sold at a higher price were assessed at a lower percentage of sales price than lower value properties.

The Committee concluded that a "strengthening of the assessment process is required to reduce the variations in individual assessments which are present in most municipalities." It further concluded that the "data appear to indicate a more than accidental pattern of discrimination against commercial and industrial property in assessing practice. This is another unhealthy side effect of the excessive burden of property taxation under present law." It also concluded that "regressivity of assessments is so widespread in this State, and of such proportions, as to justify substantial strengthening of the assessment process in ways which should correct this source of an unfair distribution of the tax burden.

> "The present structure of assessment is basically disorganized in that it depends upon over 900 different assessors who are only loosely responsible to county boards of taxation. They are subject to the supervision of the Director of Taxation, but his authority is meant to be exercised only on the most pressing incidents."[2]

The New York Commission stated that it is well known that within a single district there exist great differences in effective tax rates. "Different classes of property are assessed at different ratios of assessed to true or market value. For instance, it has been common practice in New York, as in most other states, to assess residential property at a lower rate than other types of property, and thus effectively, to subject such property to a lower tax rate."

> "...It is unfair for large one-family houses or estates to be assessed at lower ratios than nearby less valuable housing; it is equally wrong for neighbors living in identical houses to pay significantly different taxes just because one bought the house at a more recent date and therefore has a higher assessed value placed on his residence. Both of these inequities are common in New York State and should be systematically eliminated by improved, more up-to-date local assessment practices, and increased state monitoring."[3]

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1 Report. Vol. II. Schools and Property. p. 15.
2 Report. Part II. The Property Tax. p. 57,58,64.
3 Op. cit. p. 2.34.

And this from Texas:

"Of all the problems attendant to the administration of property taxes, the one of most concern is that of assessment equality. The tax offices of heavily populated areas are usually understaffed and have trouble keeping up with new construction, much less revaluing old property. Assessors for large jurisdictions are therefore prone to copy the previous year's assessment instead of revaluing. The marked propensity to copy assessments has prompted some to say that the sin of plagiarism originated in an assessor's office. Since property values continually fluctuate, the practice of copying the previous year's values ultimately causes unequal assessments." [1]

The Ohio Constitution, like those in other states, requires that real property be taxed by uniform rule according to value. This constitutional provision has been freely ignored. Statewide data recently obtained by the Ohio Board of Tax Appeals indicates that agricultural property is assessed at an average of 25 percent of market value, residential property at 31 percent, commercial property at 32 percent, and industrial property at 37 percent. These are statewide averages. Further inequities result from the fact that assessment ratios vary among the counties, with agricultural property being assessed at approximately 18 percent in Athens County and 32 percent in Hancock County. Commercial property assessments vary from approximately 24 percent in Wood County to approximately 38 percent in Columbiana County; residential from 24 percent in Union to 37 percent in Jefferson. "Variations in industrial property are even greater, due to the lack of frequent sales and the resultant difficulty in determining market value."[2]

The most deeply resented type of inequity is that which occurs in the assessment of properties within the same taxing area. This is not revealed by state equalization studies, which are concerned with the average ratio of assessment among the various taxing jurisdictions. A study in Louisiana offers some specifics on such variations. A few are quoted below:

"Calcasieu Parish -- a $71,875 house was assessed at $4,800 while a $12,500 house was assessed at $6,500. Of three homes sold for $20,000 each, one was assessed at $750, another at $2,320 and the third at $2,950.

"East Baton Rouge Parish -- a $65,000 house was assessed at $4,150 while a $22,500 house was assessed at $8,000 and a $28,000 house at $8,500. Three $50,000 houses were assessed at $4,400, $6,400 and $7,000 respectively."[3]

The above statements do not represent unique situations. Equally, or perhaps even more, devastating facts could be brought to light in many of the other states.

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1 "Equality in Taxation -- Houston's Constitutional Dilemma." Comment. William E. York. Houston Law Review. March, 1973. p. 657

2 Ohio Legislative Service Commission. Serrano v. Priest. Equal Protection of the Laws, and Ohio Public School Finance. Report No. 106. October, 1972. p. 32.

3 Public Affairs Research Council of Louisiana, Inc. Property Tax Inequities. PAR Analysis. Number 176. October, 1971. p. 5

The Property Tax in Blighted Central City Areas

Evidence that assessment inequities are having an adverse effect in central cities has been produced in a recent investigation. A study prepared by A.D. Little, Inc. for the U.S. Department of Housing and Urban Development contains information on assessment practices within cities and of the effect of property taxes in promoting and prolonging blight. This study represents the result of fact-gathering in an area that has been largely neglected. It is of significance with respect both to property tax reform and to the larger complex of problems besetting the central cities.

The emphasis in the study was not on formulating theory, but on finding out from property owners themselves what they do and why. Interviews were held with the owners of a minimum of 40 properties in each of 10 cities: Atlanta, Baltimore, Chicago, Detroit, Nashville, Oklahoma City, Philadelphia, Portland, Providence, and San Francisco.

Neighborhood analysis is considered extremely important in the study. For example, renovation of a property depends not so much upon the characteristics of the property itself as upon conditions in the neighborhood and demands for housing in that particular submarket.

Assessment Variations Within Cities. It was emphasized in writing the results of the study that the relationship between the several housing submarkets of a single city resembles in many respects the relationship between the separate taxing jurisdictions of a metropolitan area. "Millage rates are everywhere the same within a city, but assessments in different neighborhoods may represent varying proportions of true market value. As a result, effective tax rates may vary among sections of a given city as much as they do among different cities. The same questions then must be asked. Who bears the burden of the property tax, and is the distribution of burden desirable? What is the impact of tax differentials on the separate housing markets within a city? Does the property tax system contribute to deterioration of the housing stock."

Tax Burden. "Before reaching any definitive conclusions about the relative tax burden borne by the poor or by non-whites, however, we have to know the actual incidence of the property tax. Although buildings occupied by poor blacks, for example, may carry the highest effective tax rates in a particular city, unless we know the relative ability of landlords to pass the property tax forward to tenants we cannot be certain about the regressivity of the tax burden."

"Although some economists have provided a theoretical framework for studying the incidence question, there has been little empirical work. Our survey elicited some information on this question, although our evidence is based on the subjective attitude and estimations of real estate investors rather than their actual behavior. In any case, the findings indicate that the distributive impact of property taxes is even more complex than is popularly assumed. Landlords were reasonably consistent in pointing out that it is more difficult to pass tax increases on to tenants in blighted areas than in any other neighborhood submarket.....less than one-quarter of the landlords in blighted neighborhoods believed that they could pass tax increases forward to tenants as compared to three-

quarters of the landlords in stable and transitional upward submarkets."

Contrast in Assessment Methods Between Cities. Striking differences in the methods of assessing property are illustrated in the following quotation.

> "The most manifestly professional assessment operation was that of Portland, Oregon. Portland maintains a complete computer file on every property in the city, which is open to all citizens. Properties are reassessed on a five-year cycle. When an inspector goes to a project he carries with him the record of building permits which have been filed for that property. Properties are reassessed for both the specific improvements which have been carried out and for the overall changes in neighborhood values which have occurred since the last assessment.....
>
> "Chicago, on the contrary, pays no attention to market value in its original assessment. The city follows a four-year neighborhood assessment cycle, but assessed valuations are determined on the basis of a structure's reproduction costs and depreciation. No attempt is made to make reassessments reflect changes in neighborhood property values or the income generating possibilities of a structure, unless the assessment is appealed."

Effect of Taxes on Improvements and Rehabilitation. The study found that the investors did not generally consider the possibility of reassessment as a threat to making improvements. Local assessors did not want to discourage private reconstruction efforts.

Effect of High Assessments in Furthering and Prolonging Blight. Although the study indicates that reassessment of improvements "plays little or no role in blighted neighborhoods," they do feel that unrealistically high assessments in such areas do tend to intensify and prolong blight. In most of the areas buildings were overassessed. In many instances new purchasers were able to get the assessment on the property reduced by as much as 10 percent of their cash equity. Such a remedy is, unfortunately, available in practice only to the large investor.

The study pointed out that property owners in blighted areas are tied to large capital losses.

> "....While expressing a desire to sell their properties immediately, they often are unable to locate a buyer at what they consider to be a fair price....rather than upgrade or maintain their properties, these investors let them deteriorate, hoping to get whatever cash return they can from future urban renewal, highway expansion, or industrial development.
>
> "Equalization of tax rates could create an immediate increase in the market value of blighted properties in many cities. On the average these properties are currently paying some 16% of gross income for taxes. This could very well be reduced to 10% or less, if these properties were taxed at effective rates, based on market value, similar to those found in other neighborhoods of the same cities.....Lowering property taxes in blighted areas would allow long term owners to sell out at a somewhat higher price. By permitting these owners to "bailout" without the excessive capital losses they want to avoid, the once-for-all price effect of equalizing taxes might well lead to a large transfer of properties to a new class of owners whose ability to manage blighted properties is greater."

Image of Slumlords Fictitious. The cherished image of the slumlord fattening upon the profits of housing the poor, as it has been frequently projected, is largely fictitious, according to the study. Owners of housing in blighted areas are more likely to be small investors -- many are owner occupants -- who are being doubly penalized. Their properties are overassessed and they face being compelled to sell at a substantial loss.

Abandonment of Rental Properties. Much attention has been given recently to the abandonment of rental properties. On this subject the authors reach the following conclusions. Because of neighborhood conditions, both sound and dilapidated buildings are likely to become unprofitable to operate. Public policy has in some instances contributed to premature abandonment, as in the case of unrealistically stringent housing codes. "Faced with the impossibility of generating a positive cash flow if he maintains the building at code standards, and the impossibility of collecting rents if he maintains the building below code standards, the investor inevitably turns to abandonment as the only way out of his cash drain."

> "In principle, property taxes also would serve as a precipitating cause of abandonment....in several blighted neighborhoods property tax payments approach 20% of gross rents. If the city enforced payment of this tax as long as property remained in operation, the profitable life of a structure, to the owner, might fall far short of its economically useful life.....
>
> "In practice, the property tax has not greatly encouraged abandonment, because few cities enforce payment of the tax in badly decayed neighborhoods. ....At the margin, the property tax typically does not figure prominently in the abandonment decision because, long ago, the investor stopped paying this tax."
>
> "If the property tax has played a subsidiary role in producing abandonment, it may play a central role in frustrating the recuperation of badly blighted neighborhoods."[1]

The problem of abandoned and tax-foreclosed houses has become so serious, some cities are experimenting with the homesteading principle. Under this plan the city gives abandoned housing, which is considered capable of rehabilitation, to qualified applicants, either free or for a nominal amount, and the recipient agrees to bring the building up to housing code standards, and to live in it for an agreed-upon period of from three to five years. The city gains by getting the property back on the tax rolls and also by helping to meet the housing shortage. This plan has already been initiated in Wilmington. Baltimore and Philadelphia have adopted the program and Boston is expected to do so. A number of other cities are interested.

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1 A Study of Property Taxes and Urban Blight. Prepared by A.D. Little, Inc. for U.S. Department of Housing and Urban Development. Printed for use of Senate Committee on Government Operations. April 23, 1973. 338. p. See pp. 9-10, 49, 50, 150, 151, 102-3, 114-15.

Philadelphia has more than 30,000 abandoned houses, Detroit some 15,000, and in New York City houses are abandoned almost daily.[1]

Reaction of Investors and Assessors to Property Tax Alternatives. A survey of investor and assessor reaction to several alternative methods of taxing property was made in the Arthur D. Little study. Land taxation proposals, or a differential tax on land and improvements, received little support from investors. There was objection to taxing land on "its highest and best use" because "it was impossible, even among experts, to find universal agreement on what constitutes optimal use. Bureaucratic determination of optimal use would require a degree of governmental intervention in the real estate market which investors and assessors alike found undesirable." Assessors dislike the idea of a differential tax on land and improvements.

A tax on net income was a heavy favorite, particularly in the blighted areas. "The more sophisticated investors in the sample recognized that a tax on net income easily could be abused."

> "Foremost among investor concerns was the need to substitute some other major source of revenue for the property tax. Fear of increasing rates of taxation disturbed most respondents more than the method of assessment. While it is beyond the scope of the study to suggest alternative sources of municipal revenue, federal assumption of the costs of welfare and education seems the most promising long-run solution to the increasing burden of property taxation."

Administration of the property tax, particularly the appeals procedure, was the second most frequently volunteered response. A significant number of investors complained that assessments strayed too far from market value. Investors also complained about too many tax-exempt properties and a too large concession to federally subsidized projects.[2]

Fragmentation of Governmental Units

The fragmentation of governmental units impairs the equity of the property tax in two ways: (1) The local units are frequently too small to employ full time, highly trained assessors and to utilize modern assessing techniques. (2) Dividing the state into a large number of small units results in great disparities of taxable wealth. When an expensive function, such as education, is financed in this way, taxpayers in different units are subject to widely varying tax burdens.

Exemptions and Concessions

A third major cause of inequity results from the widespread and increasing granting of property tax exemptions and concessions. Legislators are unwilling to face harsh fiscal realities. They are confronted on the one hand by insistent pressure groups capable of arousing emotional responses. It is obviously politically desirable to placate such groups. On the other hand, however, they are confronted by taxpayers protesting heavy taxes. Property tax exemptions seem to be the ideal solution. They will, of course, result in heavier taxes,

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1 Wayne King. "Homesteaders Combating Urban Flight." The New York Times. September 16, 1973.

2 Op.cit. p. 159-67.

but the effect will be less obvious than a direct expenditure. Although the State legislator gets the credit for granting the exemption, it is actually the local government that will have to meet the burden of raising funds to offset the decline in property taxes resulting from exemptions.

No matter how worthy the motive behind it, every tax exemption of tax abatement device should be subjected to searching scrutiny in two respects:

1. Can the objective be achieved more equitably and more effectively through a direct subsidy?

2. Does the need for the tax exemption indicate a need for basic tax reform?

In deploring exemptions, however, a distinction should be made between a situation where exemptions are granted for the purpose of favoring some particular group, or where the tax base is altered with the goal of achieving a tax reform by removal of certain broad categories of property from the tax base for administrative or economic reasons. This distinction is not always recognized.

It has, however, been stated with particular clarity by Drs. Frederick L. and Edna T. Bird:

> "The questions and criticisms raised in the foregoing discussion of property tax exemptions are not concerned with the exclusion and classification that may be necessary to produce a manageable and reasonably equitable property tax system. They are directed to the perennial give-away system that is confusing tax administration; frittering away the tax base, and unequally burdening local governments by yielding to special pressure groups, by shifting the tax burden without due regard for equity and justice, by the reckless misuse of exemptions for purposes which, while they may be desirable, could be better accomplished by other means, and by the piling up of concealed subsidies with little regard to their mounting cost and its effect on the local governments and the narrowing group of full-time taxpayers.
>
> "Local public officers responsible for the financial welfare of their governments, State administrators charged with the supervision of local finance, and trained observers concerned with the role of the property tax as it affects both State and local government are perplexed and disturbed by the endless inroads on the property tax base...."[1]

When any tax, or any feature of a tax, appears to be impossible of equitable administration or productive of particularly undesirable economic or social results, then the removal of such a tax feature would appear to be desirable and should not be considered in the same category as the special-favor type of exemptions.

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1 Op. cit. p. 87.

For example, when New York State abolished the personal property tax in 1933 -- a step which had been advocated for 50 years by official tax study commissions -- it was done to achieve greater efficiency and equity in tax administration, and not in order to favor a particular group of taxpayers or to achieve a social reform through the tax system. Moreover, the income from such property was reached -- and far more effectively -- under the state income tax law.

By way of contrast the homestead exemption laws, for instance, which have been adopted in a number of states constitute a tax favor to a special group of persons -- those owning homesteads as opposed to renters -- and have complicated administrative problems in those states.

The former change -- that is, alteration of the tax base of removal by broad categories of property -- usually relates to the nature of the property, the latter -- that is, the specific tax exemption -- relates to the identity of the owner, or to the use he makes of the property.

Some of the newer forms of exemptions and concessions that are most in the current news are those for open space, agricultural land, and the homes of the elderly.

One method of preserving open space is in the purchase of conservation easements. This does not really represent a tax concession, however. If the law is carefully drawn and properly administered, this has only the tax significance of any other property sale in that a property owner is not taxable on something he has sold. Giving up the right to develop represents a disposition of property value.

There has been considerable use and abuse of agricultural land concessions in transitional areas. Some persons buy farms in fringe areas, make a pretence of carrying on sufficient farming to justify having the property taxed as farmland while it increases in value, and sell it later at a substantial profit.

The form of tax concession that is most publicized currently is on the homes of the elderly. The widely advocated circuit breaker form of relief will be discussed later.

Windfall and Speculative Gains

There is a fourth major inequity associated with the property tax. Despite the burdensome effect of the tax upon the homeowner and upon many business enterprises, fortunes are being made, and made quickly, in land. Although there is considerable evidence of fantastic profits,[1] it is unlikely that it

1 In fact, there is a guidebook on how to "get into the big money in real estate." For example, as a result of using this book you will know "the secret signals that tell a good location from a bad location," how to judge actual land value," "how to pyramid your profit on utility-equipped land -- and how to make raw land pay you plenty too," "can see through the smokescreen of zoning and sometimes swing zoning changes that put money in your pocket," "know the key tricks of real estate timing," "know how to pile up profit on other people's credit," and "how to buy property wholesale and sell it retail." Albert Winnikoff, The Land Game -- How to Make a Fortune in Real Estate. New York: Lyle Stuart, Inc. 1971.

will ever be possible to estimate the amount of land held for speculation. There are, however, undoubtedly speculators in every developing community. By way of contrast, there are many property owners even in the cities -- perhaps particularly in the cities (see earlier quotations from A.D. Little study)-- who do not recoup even the purchase price and carrying charges when they sell, and those who suffer most are those whose losses result from a deflation of land values. Most land is owned for use and is being used. It is the transitional land that attracts the speculator.

It has been pointed out by some writers that increases in land values are socially created, and to some extent this is true. More and more, however, they are going to be made as a result of government regulation, as distinguished from direct government expenditures. Because of ecological considerations -- and ecology is becoming recognized as a very inclusive term -- an owner's rights in land are going to be severely limited. Owners of coastal lands, flood plains, scenic and historic areas, and areas that for various other reasons are not suitable for intensive development, or perhaps for any development at all, will find that they have little or no opportunity to develop their property advantageously. Meanwhile, however, development will proceed, probably at an accelerated pace, in other areas. Whereas government land controls will result in severe losses for some owners, they will conversely enable others to reap tremendous gains.

In the interest of justice, therefore, some method should be devised for recouping to some extent a portion of these extraordinary gains resulting from changes in land use. Such a method should help to iron out to some extent the extremes in the fortunes of those whose land is zoned for the most profitable use and those whose lands must be held in a relatively unprofitable use because of ecological or other reasons.

The Major Inequity

The major property tax inequity results from using the property taxpayers as the residual burden bearer. No other group of taxpayers is so treated. In the case of the property tax local officials decide how much revenue is to be raised. They look at the assessor's valuation of property and then determine what tax rate on such valuation will produce the desired revenues. The rate increases can be substantial. For example, a township in New Jersey increased its rate by 50 percent in 1973, after having sharply increased valuations in 1972. Similar treatment of sales or income taxpayers would create a furor, but the property taxpayer is expected to accept these sudden shocks and major disruptions of his financing plans as a matter of course. The annual munipulation of the property tax rate is a major evil of the property tax.

It is particularly unfair as property ownership is for most persons, a substantial long-term -- perhaps lifetime -- investment. They have checked on tax and mortgage rates and have tried to estimate whether they can assume the financial responsibilities involved in ownership of property. They know, of course, that if their property increases in value the assessment will be, or should be, increased. But a valid argument could be presented for maintaining a stable rate. A sharply increasing rate on their capital investment jeopardizes their solvency. Manipulating the property tax rate is far less defensible than changing the rate of income or sales taxes, since the former affects a long-term capital investment that is not related to a person's current income or his current style of expenditure. It is this annual manipulation of the rate that

makes the tax so onerous on the elderly, who thought that they had provided a home for their old age only to find that they are being penalized beyond their most somber expectations.

If all property were always assessed accurately at full value and if the tax rate were kept constant, the homeowner would be relieved of a great burden of anxiety. Many problems hinge upon the fact that the property tax is the residual burden bearer.

B. Critique of Current Property Tax Reform Proposals
(The term "reform" is used in the literal sense of changes. These may, or may not, represent improvements)

The above five major inequities in the property tax constitute a formidable list of evils. None of these problems is insoluble, but they require first of all recognition. Second, solutions demand the willingness to carry out the necessary changes. Difficult as the problem of reforming the property tax to make it a defensible part of the revenue structure may be, there are no rational grounds for the sporadic suggestions that the tax should be abolished.

Many proposals are currently being made for property tax reform. Some of these would aggravate, rather than alleviate, the defects.

Administrative Reforms

There is substantial agreement among students of the property tax -- although not necessarily among other groups -- concerning the nature of administrative reforms. A classic statement of such reforms was spelled out in the previously cited Bird study a decade ago. There were 29 recommendations for administrative reform. The ones of the greatest general significance are as follows.

The property tax should be rid of all features "that are impossible to administer as written, whose effective administration would be economically intolerable, which force administrators to condone evasion, and which encourage taxpayer dishonesty." Because nonuniformity of assessment tends to increase when property is assessed at low fractions of full value, minimum assessment is generally preferred by students of property taxation. All tax-exempt property should be assessed regularly and the findings published. Centralized assessment administration should be considered for immediate adoption by some states and for ultimate adoption by others. No assessment district should be less than countywide. All overlapping districts should be abolished. The state supervisory agency should establish the professional qualifications of assessors and certify candidates as to fitness. All assessors should be appointed rather than elected. State assessment should be extended to all property of types which customarily lie in more than one district and do not lend themselves to picemeal local assessment, which require appraisal specialists beyond the economical scope of most local district staffs, and which can be more readily discovered and valued by a central agency. The state supervisory agency should be required to conduct annual assessment ratio studies in all assessment districts and to publish findings."[1]

1 Op. cit., Vol. 1. p. 3-25.

These reform proposals have been re-echoed by numerous other individuals and groups, and limited progress has been made in achieving them. Some states are currently working along the lines of some of these reforms. Maine has just enacted a comprehensive Act Relating to Property Tax Administration, which provides for assessments at 100 percent of current market value. It also requires that the assessed or estimated value of all exempt real estate be shown. The law also provides for certification of assessors, selection of assessors, ratio studies, and various other methods for the improvement of assessment procedures with in the state.

In 1973 the Maryland Legislature passed a bill providing that the state will assume full financial support of the entire assessment procedure.

Recently there has been experimentation in some of the states with a promising new technical innovation -- computer assessing. For the past few years some of the larger assessing jurisdictions have been developing a formula for such assessing. The International Association of Assessing Officers has just published a book, which sets forth basic guidelines for the use of computers and statistics in assessing operations.[1]

The New York State Board of Equalization has been using computers to calculate equalization ratios and is now ready to develop a computer program for local governments.

Other changes of an administrative nature that would lessen the pressures on the property tax are the transfer of educational financing to the state and of welfare financing to the Federal government. These changes have been repeatedly recommended by special study commissions and other informed and responsible groups and individuals.

Substantive Reforms

With respect to administrative reforms we are somewhat in the position of the farmer who told the county farm agent that he didn't need to learn any more -- he already knew a great deal better than he did. The situation is quite different in the case of substantive reforms -- none of which command anything like universal acceptance, either among the experts or the general public.

Calssified Property Tax. There are some persons who argue that the classification of property in different categories and the taxation of such categories at different ratios of assessment, or at different rates, would be desirable as a means of relieving individual taxpayers at the expense of industry and commerce. This is a demagogic appeal intended to secure the support of homeowners by imposing relatively heavier burdens on business. Another even more specious argument is that since assessors are illegally assessing different categories of property at different ratios of value, why not legalize this practice. (By following this procedure with respect to other forms of illegal activity lawmakers could readily wipe out all crime.) Aside from the fact that there is no universality in this practice, there is also no uniformity as to the different ratios of assessment accorded to different categories by different assessors. This has been evident from some of the previous quotations in this paper.

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1 By Jerome Dasso, under a grant to IAAO from the Rockefeller Brothers Fund.

Minnesota has experimented with the classified property tax for many years, and according to some authorities in that state offers a convincing demonstration of what not to do. In 1966 Rolland F. Hatfield, Commissioner, Minnesota Department of Taxation, expressed the following opinion concerning the Minnesota experience with a classified property tax: First, he could not see any real economic justification for classifying property for tax purposes. Second, classification was no cure for illegal assessment. "The assessor, under the classified system, has proceeded to have his fractional assessment just as he had before. So, we have a situation where we have not only legal classifications, but also illegal fractional assessments; and this, of course, compounds the inequities that exist between one class of property and another." Third, "there is no logical stopping point once you start a classification of property. We started with four classes and we now have some twenty different classes." Fourth, all of the proposals are for a lower percentage. "The result is that the tax base becomes constantly eroded and the tax rates skyrocket." Fifth, although a case can be made for having the so-called public utilities pay a higher tax than other taxpayers, "it might be a lot easier to simply tackle the problem head-on and have an in lieu tax on those industries rather than take a step so drastic as to change the fundamental basis of the property tax system."

> "If you want the opinion of one who comes from the only state which has a totally classified property tax system, let me say that I have recommended and I am still going to recommend that the legislature take steps to reverse this process, if possible. We would like to get back to a property tax system."[1]

It seems questionable to urge a system that has worked unsatisfactorily and that leads to further political pressures. Again we run into the pervasive and insidious method of trying to favor special groups rather than making an all-out effort to achieve justice for all. It would be far more equitable and efficient to limit the rate for all taxpayers and to improve assessments. If it then appeared that business was not paying its "fair share" -- whatever that might be -- adjustments could be more fairly made in other business taxes based on income or some other defensible basis that would not hinder industrial development or penalize certain industries or specific businesses.

In a recent report the Committee on State Taxation of State Chambers of Commerce has disapproved the introduction of classification into the property tax system.

Classification is discussed in the ACIR Report on Financing Schools and Property Tax Relief -- A State Responsibility, but it was not endorsed. "Despite uncertainty about incidence, one factor cannot be ignored by State tax policymakers -- the possibility that what looks like legally sanctioned tax 'discrimination' against business may adversely affect the State's economy, even though preferential assessment may offset part or all of the legalized 'discrimination.'"[2]

The New Jersey Tax Policy Committee also considered classification, but concluded:

> "That no program should be considered which would classify real property for local taxation, or further reduce the property tax base or distort its use to distribute the local tax burden...."[3]

1 Rolland F. Hatfield. "Minnesota's Experience With Classification." Chapter XXI in The Property Tax: Problems and Potentials. Princeton: Tax Institute of America, 1967. p. 239-44.

2 A-40. January, 1973. p. 74.

3 Part II. The Property Tax. p. 28.

Income Rather Than Capital Value Basis. The taxation of property on an income, rather than a capital value basis, was strongly urged during the 30's. Although we do not hear so much about it now as a planned reform, the principle is making inroads in actual administration, and to a slight extent in legislation. This plan has been followed in Great Britain, but what advocates of the British system in this country frequently overlooked was that Britain taxed on imputed, as well as actual, income.

The income basis is being used by assessors in this country to arrive at the value of business and industrial properties for which sales data are infrequent, or non-existent.

Limited legislative approaches to the income basis have been made in Massachusetts and New Jersey. The Massachusetts approach was born of a desperate situation. A major rebuilding project in downtown Boston was stymied because the sponsors could not afford to go ahead with the project under the existing tax system and in competition with older buildings that had been largely depreciated. An agreement was reached in 1958 with city officials whereby the basis of assessment was to be reasonable return on the investment rather than basis on the cost of the project. The company later decided that unless this informal agreement could be made irrevocable the project would be abandoned. Legislation extending the Urban Redevelopment Corporation (Limited Dividend Housing) Act to nonresidential properties was enacted, and was upheld by the Supreme Judicial Court of Massachusetts on December 20, 1961. Somewhat comparable legislation has been enacted in New Jersey.

It may be noted that when the property tax system of a state or community is so onerous that desired development cannot take place it should be a cause for reducing the excessive burdens on property rather than by making special exceptions.

Exemptions and Concessions. The policy of granting special exemptions and concessions has already been criticized. Although controversy does exist with respect to the traditional types of exemptions for governmental, religious, educational, and philanthropic institutions -- there is increasing sentiment for tightening these exemptions to insure that only property actually used for such purposes be exempt and there is also sentiment for imposing service charges on such properties -- the greatest criticism is directed toward the newer types of exemptions. Some of these are for homesteads, public housing, urban renewal projects, veterans, aged persons, industry, and agriculture.

There are two types of concessions that are currently attracting particular attention: concessions for farmers and for the elderly. Although there are cogent arguments for both of these tax favors, much of the need for them -- as well as the inequities resulting from their use -- would disappear if there were rigid limits upon tax rates, coupled with a special capital gains, or increment tax imposed at the time of transfer of property. The latter reform would also have the virtue of removing, or substantially lessening, other inequities.

With respect both to farmers and the elderly, a policy of tax deferral, rather than outright forgiveness, would seem preferable and also more equitable.

There is no question but that the elderly are in a particularly precarious situation as a result of rapidly escalating tax rates, superimposed in many cases on rapidly increasing assessments. There is also no question but that some way should be found to prevent such persons from being deprived of their homes. But the elderly are not the only taxpayers being penalized by the property tax; and the principle of justice for all should take precedence over that of charity for some. Also, it should always be kept in mind that blanket exemptions for some classes of the population increase the burden upon others, who may be little or no better off than the favored classes.

A rigid limit upon property tax rates would relieve many of the elderly from falling into the charity category. Therefore, the special aid required would be far less. If a policy of tax deferral, rather than outright exemptions, were followed in the case of those still requiring help, the deferred taxes could be partially, or completely, recovered when the property was transferred by sale or bequest. There probably would have to be a minimum exemption in the case of very modest properties. Unless a policy of deferral is adopted the heirs, who may be relatively prosperous and perhaps only slightly related to the deceased, will become substantial beneficiaries of the tax relief.

There is currently a wave of so-called circuit-breaker legislation sweeping the states. Legislation of this type has been advocated in the report of the Advisory Commission on Intergovernmental Relations and also by the sponsors of Senate Bill 1255. Some variants of this type of legislation that are now being enacted or proposed in the states seem ill-considered. For example, provisions that relate the concession to the percentage of an elderly person's income taken by property taxes are particularly suspect. A figure of 3.5 percent has been suggested from time to time, but a little consideration would show that such a provision could discriminate unfairly against some of the persons whose position was most precarious and could work to the advantage of others who did not need government assistance.

The Michigan Legislature enacted in 1973 a property tax relief program which provides a credit against personal income taxes equal to 60 percent of the amount by which the property tax exceeds 3.5 percent of household income. The maximum credit is $500. (For renters 17 percent of the gross rent is treated as the equivalent of property taxes.) If the credit exceeds the personal income tax, the taxpayer may claim a refund.

By no means all of the elderly need relief, even if the tax amounts to 5 or 10 percent of their income. There are many relative considerations, such as whether the taxpayer is free of mortgage debt, the value and condition of his home, and ownership to considerable prying into their personal affairs. Some who might be entitled to the relief would forego the help rather than submit to such an inquisition.

Consider, for example, the way in which the Michigan law might effect some elderly taxpayers. Taxpayer A has a retirement income of $12,000. He lives in a house assessed at $20,000. His tax at 2 percent of full value is $400. He and his wife are in poor health and are physically unable to do anything to keep the house in repair. Insurance rates and heating bills are both extremely high because of shoddy construction and lack of insulation. Moreover, he is heavily in debt. He cannot afford essential repairs to his house. He is also too feeble to contribute to their subsistence in any way. Since 3.5 percent of his income is $420, he is not eligible for any credit.

Taxpayer B has a retirement income of only $8,000. His comfortable, well-kept home is assessed at $50,000 and worth it. He and his wife are in excellent physical condition and are able to maintain their home in top-top condition. Heating bills and insurance rates are, therefore, relatively low. He is debt-free. Since he lives in the suburbs and has a large lot he can, and does, grow vegetables and fruits, thereby saving a considerable amount on his grocery bill, as well as getting more satisfying food. The tax rate in his community is also 2 percent on full value, so he has an annual tax of $1,000. As 3.5 percent of his income is $280, his tax exceeds that percentage by $720. So he is allowed a credit of $432. Because of his generally favorable circumstances he is probably in no greater need of relief than the general run of property taxpayers and is certainly far better able to pay $1,000 than A is to pay $400. If, however, he happens to live within the same governmental unit as A, the relief he gets will probably to some extent be at the further expense of A, since tax liberality for some must always be made up by added tax burdens on others.

This raises the interesting question of who is going to pay for this largess that is being so freely offered to some of the not-so-needy, as well as those in need.

In opposing the circuit-breaker principle at the Hearings on S. 1255, Henry Aaron, Brookings Institution, said:

> "....Circuit breakers are inherently inequitable....because they provide most aid to households within any income bracket which have the most wealth."
>
> "This....pattern of aid....arises because aid commences only after property tax liability....exceeds a certain bracket of income."
>
> "This fact explains a second feature of the chart, that sizable benefits are paid to households with negative incomes. Many of these households are quite wealthy but have negative incomes, sometimes of hundreds of thousands of dollars, because of business losses.
>
> "The provision of aid to wealthy families can be reduced if eligibility is based on asset holdings as well as income."[1]

Under a system of rigid tax limits, the circuit-breaker coverage could be substantially scaled down; or eliminated, as the relatively small percentage of the aged needing special relief might be more effectively aided through a program of cash relief. Also, if there were a policy of tax deferral accompanying any circuit-breaker relief that was granted, some inequities could be eliminated and also revenue losses could be curtailed. In the case of very modest properties below a certain minimum value, the tax deferral recovery provision could well be waived.

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1 Hearings on Property Tax Relief and Reform Act of 1973. May, 1973. p. 41-2.

There are many equity issues in property taxation that need to be resolved. They should take priority over questions of relief. Moreover, if these equity issues were resolved, many serious relief problems would disappear. Special measures of tax relief -- exemptions, abatements, or whatever -- result in a policy of "Devil-Take-the-Hindmost." The groups with the most political pull get the relief, while other taxpayers -- perhaps some that are equally, or more, needy -- suffer greater tax burdens as a result of the relief measures. As the pressures grow upon those left holding the bag, another relief movement is generated, and so on.

The old adage, "Be Just Before You Are Generous," might well be kept in mind.

Land Value Taxation. The reform that is most ardently espoused by its advocates is that of so-called land value, or site value, taxation. Under such a system, improvements would be wholly or partially exempt from taxation and the loss would be made up by increasing the tax on land. Advocates contend that it would recoup socially created values and would force land into "its highest and best use." It would do little or nothing to recoup the substantial gains from speculation or windfalls. It would constitute a particular burden upon the poor with their modest homes while offering a bonanza to the owners of expensive houses. Moreover, the argument that it would force land to its "highest and best use" bears closer examination. That timeworn slogan merely means the use which will yield the greatest return to the landowner. Such use is by no means necessarily the highest and best use for the community as a whole and may even be detrimental. This principle is in conflict with much of the newer thinking on land uses and land controls.

It would be most unfortunate if all urban land were to be forced into immediate use. There are advantages in having some land temporarily withheld from the market in order to allow leeway for future development. Are we so wise at this moment in history that we can determine how all land should be used? The vacant or underutilized land of today may offer great opportunity for holding and paying taxes on under-utilized land is an advantage. A device, such as land value taxation would have many serious defects and would result in serious inequities.[1]

Special Capital Gains Tax Upon Property transfers. There are, however, valid arguments for some form of special tax upon increases in land values, to be imposed at the time of transfer, whether by sale, gift, or bequest.

Such a tax, by being levied at the time of transfer, would have no tendency to disrupt the real estate market by stimulating or depressing buying and selling at any particular period. If a property owner realized no profit he would have no increment tax to pay and would, therefore, be in a much better position than the taxpayer under site value taxation, who might have been paying taxes on artificially inflated values, or the present owner, who might have paid special assessments for improvements that did not increase the value of his property.

Nor would such a tax distrub the existing complex network of equity relationships in property. Moreover, it would not depend upon the vagaries of the assessing system. The increment, or special capital gains tax, is a tax on what has actually happened. By contrast a special assessment is a tax on what is expected to happen; and a land value tax upon what might have happened. When gains are not realized as estimated, the owner is penalized under a special assessment or under the proposed land value tax. This could not happen under the gains tax.

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1 For a fuller discussion of this subject, see Mabel Walker, "Some Observations on Land Value Taxation," Tax Policy, June-July, 1971; and also "Taxation of Land Value Increases," Tax Policy, August-September, 1971.

An argument that has been advanced against the increment tax is that it would prevent owners from selling. That seems unlikely to be the case if the tax were imposed on all transfers -- whether by gift, sale or bequest. Since there would be no escape from the tax the timing of transfers would depend upon market factors or the inclinations of owners and buyers to sell or purchase rather than a desire to escape the tax. However, if desired, some adjustments in rates could be made in the case of infrequent transfers.

Increment taxes of this nature have been proposed for more than half a century and there has been some experimentation in foreign countries along this line.

Vermont is pioneering with a special capital gains tax upon land transfers that take place within six years of date of purchase. Residents have been increasingly disturbed by the influx of new residents and of part-time residents with their vacation second homes. The state has been adopting strict regulation of developments. In 1972, Thomas P. Salmon, in campaigning for the governorship, advocated a special capital gains tax upon land transfers, coupled with property tax limits. That the idea was popular was demonstrated by the fact that he is one of only two Democrats to win the governorship in 119 years. The new law was passed in April, 1973. The tax is graduated according to length of time held and amount of profit. It ranges from 5 percent on land held from five to six years and selling at less than 100 percent profit to 60 percent on land held less than one year and selling at a profit of 200 percent or more. The tax is being protested in two lawsuits. The avowed purpose of the measure is to keep Vermont for Vermonters.

Rigid Tax Limits. Since the use of the property tax as a residual burden-bearer in local government finance represents a fundamental defect, it follows that the correction of this condition constitutes a major -- perhaps the major -- reform to correct present inequities. The one way to do this is for the state to impose a rigid limit upon property tax rates. There is increasing recognition of the necessity for such a limit.

Property tax rate limits are recommended in the reports of the New Jersey Tax Policy Committee and of the New York State Commission on....Financing ...Education.

A. Alan Post, Legislative Analyst, and Richard W. Brandsma, Principal Program Analyst, Office of Legislative Analyst, California, recently stated:

> "The statewide property tax is often espoused as a means of providing school district tax relief. However, if it were decided to provide tax relief for schools by means of a statewide property tax, care would be necessary to insure that a reduction in school property tax rates would not result in increased property tax rates for other governmental purposes. Thus, if property tax relief is a goal, limits must be placed on the use of property taxes in general."[1]

A proposed constitutional amendment to limit property tax rates was submitted to voters in California in November, 1972. It was chiefly sponsored by Philip Watson, County Assessor of Los Angeles County, and was known as the Watson Amendment. The proposed limits were 2 percent of assessed valuation (which 25 percent of full value) for counties, cities, and schools; and 0.5 percent for

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1 "The Legislature's Response to Serrano v. Priest." Pacific Law Journal, 1973, p.42.

intercounty and also for intracounty agencies. This would add up to 7 percent of assessed value, or 1.75 percent of true value. Service charges for existing debt would further increase the rates. The proposed amendment would have committed the state to supplying additional revenue for the schools by increasing state sales, cigarette, and liquor taxes. The amendment was defeated at the polls.

Governor Ronald Reagan is sponsoring a tax-limit amendment which will be voted on at a special election in November, 1973. The amendment proposes a limit on both income and property taxes. The state income tax, which is already relatively low, would be fruther restricted by the amendment. Local property taxes would be held at the 1971-72 or 1972-73 level, whichever was higher. It may be noted that this amendment would do nothing to relieve property taxpayers of their present burdens, nor would it serve to correct any current disparities. Overtaxed communities would continue to be overtaxed and undertaxed communities would be protected in their low rates. Freezing inequities does not correct them

There are special reasons for adoption of property tax limits that do not apply in the case of other taxes. No other tax has the role of ultimate burden bearer forced upon it in a like manner. Second, the property tax rests upon a shaky assessment system, which can be substantially improved, but never made entirely fair. Third, it falls upon capital values and can wipe out the capital investment in a home which frequently is the only capital of the poorest taxpayers. By contrast, the income tax falls only upon those with income and bears a close relationship to their incomes; and is, moreover, a graduated tax bearing less heavily upon low incomes. It cannot, therefore, be so disastrous in its effects. Moreover, it seems likely that taxes that are imposed by the state can be more readily opposed and controlled than taxes levied by small jurisdictions, within which the most heavily burdened may be the least vocal and politically effective. The California amendment, therefore, does not seem to be defensible in relation either to property or income taxes.[1]

Although the practice of imposing limits upon property tax rates has been widespread among the states[2] most of these limits are not very restrictive. They have also been circumvented from time to time by setting up overlapping units of government, or by popular approval -- but not necessarily taxpayer approval. Only overall limits (that is, limits applying to the total of overlapping units) set at a fairly low rate without provisions for voter increases will adequately protect the property taxpayer. Overall limits are found in nine states, and in some of them the rates are set at a relatively low and, therefore, quite restrictive level.

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1 For a pro and con discussion, see Tax and Expenditure Limitation by Constitutional Amendment. Four Perspectives on the California Initiative. Berkeley: University of California. Institute of Government Studies, 1973. 70 pp.

2 There are only seven states without some form of limitation. They are Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, and Vermont.

There was a wave of property tax rate limitation legislation during the 30's which was sponsored by real estate interests and severely criticized by government researchers. Because of the rapidly mounting burdens upon the property taxpayer, however, the pendulum of informed thought appears to be showing a tendency to swing in the direction of such limits.

General Comments on Property Tax Reforms Proposals

Proposals for property tax reform seem endless, if we use the word "reform" in its literal sense to mean reshaping. Whether most, or even a sizable number, of these reforms would constitute improvement -- which is what many persons have in mind when they use the term -- is highly debatable. The diverse ramifications of many of these reform proposals are not directly related to school finance. The two areas of reform that do tie in closely with school finance considerations are (1) changes designed to produce more efficient and more equitable property tax administration, and (2) changes related to the pattern of local governments imposing the tax. The two are closely interrelated.

Although improvements have been made in administration and further improvements can, and undoubtedly will, be made, the assessing process can never be a perfect one. Also, as valuable as the sales ratio is, it too can never represent, perfection in gauging assessments -at least with respect to individual properties. There is a largely fortuitous element in the selling of real estate. There may be a "little something" not always subject to measurement or definition that causes one property, whether improved or not, to sell advantageously, while another owner may try for years to unload property that is similar to -- and similarly assessed as -- the property that has been sold.

Also, much depends upon the inclinations and the purse of the prospective buyer -- as well as the exigencies confronting both buyer and seller. Moreover, property values -- both of land and improvements, respond to zoning changes, to regional economic development, and to other factors. Under a policy of high tax rates, owners who sell during an inflationary period, or a local boom, do not suffer from the taxes; but owners who, voluntarily or otherwise, let the opportunity slip, may sell later at a much lower figure, and will, therefore, have been heavily penalized by the tax.

There is a crying need, therefore, for rigid limits on real property taxation. A homeowner's solvency should not be dependent upon the vagaries of local officials and the uncertainties of local assessing practices. Moreover, property taxation must continue to be the residual burden bearer picking up the slack left by other revenue sources.

Under a system of rigid and relatively low limits upon tax rates with efficient assessments based on full value, and coupled with a special capital gain tax imposed at the time of transfer -- whether by sale, gift, or bequest -- the guesswork would be largely taken out of the property tax picture. Under such a system the owner or prospective buyer can plan rationally for the disposal or acquisition of real estate. The taxpayer will be protected, the unequal exonomic effects of ever-increasing land use regulation will be ameliorated, and the revenues collected will be very substantial--perhaps even as much as they now are.

It should be noted in this connection, however, that the suggested figures of 90 and 100 percent for capital gains tax rates are utterly unrealistic.[1] When one consider the federal tax on capital gains and also the fact that some states likewise impose a capital gains tax, it would appear that any such increment tax imposed solely on real estate transactions should not exceed 25 percent. It would be desirable to impose such a tax on increases in value of both land and improvements inasmuch as the same forces that affect the value of one are also largely responsible for fluctuations in the value of the other. (See, for example, the quotations from the A.D. Little study previously cited.) Moreover, if the increment tax were imposed only upon land, it could give rise to some difficulty in allocating costs and profits between land and improvements, and also to some juggling of accounts.

Although Vermont has combined a capital gains tax with tax limits, the legislation is by no means what is suggested in this paper. The thesis here is that there should be rigid property tax limits for all taxpayers, coupled with a special capital gains tax upon land transfers by all taxpayers. A rate graduated according to profit is defensible. Somewhat more questionable is graduation according to the shortness of time held, although that too can be defended. It may be noted, however, that special care would have to be exercised in this respect to prevent the "locked-in" effect that troubles land value taxers. The basic issue here is whether the objective is to slow down land transfers, as in Vermont, or to speed them up, as desired by the land value taxers.

Nevertheless, the Vermont law represents a highly significant break through in traditional approaches and warrants careful observation. Although realism compels one to recognize that the vote was probably influenced by the appeal of tax limits, the legislation does highlight a growing awareness of land development problems and of the enormous profits frequently resulting from the sale of land in transitional areas.

What should be kept in mind in considering property tax reforms is that an exceedingly complex set of economic relationships has been built up as a result of property ownership and taxation. Some of the proposed substantive reforms would create considerable injustice as a result of disturbing these relationships. Many persons and many business enterprises would be severely penalized; while many others would be fortuitously enriched. It is impossible to start with a clean slate. To recklessly impose economic losses on some persons while just as recklessly enriching others, without regard to the merits of either group, is repugnant to the average person's sense of fairness.

It is equally important to remember, in considering exemptions and other special concessions, that equity for all taxpayers is more important than charity for some.

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1 See, for example, ACIR Report, A-40. Financing Schools and Property Tax Relief -- A State Responsibility. 1973. p. 85.

III. SCHOOL FINANCE AND PROPERTY TAX PROBLEMS AS AFFECTED BY FRAGMENTATION OF LOCAL GOVERNMENTAL UNITS

Revenue disparities among school districts, and also among other local governmental units, result from the fragmentation of the state into numerous small units. The greater the degree of fragmentation, the greater are the disparities.

Rather oddly, multiplicity of such units in most of the states has resulted neither from magnitude of area nor density of population. These local patterns stem originally from historical developments. When settlers from the northeast moved westward they carried with them the town or township pattern of local government. When settlers from the more southern Atlantic seaboard states moved westward they transported the county system of local government. In the course of time various other layers were added to these patterns, and local government proliferated.

There were more than 81,000 local units in the 50 states in 1967.[1]

Counties	3,049
Cities, 25,000 and over	684
Cities, 10,000 0 24,999	986
Cities, 1,000-9,999	6,650
Cities under 1,000	9,728
Townships	17,105
School Districts	21,782
Special Districts	21,264
Total	81,248

More than half of these units are found in 10 states, with more than 3,000 each. Ten states have fewer than 500 each. The number of local units per state ranges from 19 in Hawaii to 6,453 in Illinois. Multi-layers of local governments are found in some areas, and in some of these the same property is assessed and taxed by more than one local unit. Nine-tenths (70,726) of these local units are authorized to impose property taxes. This includes all of the units except about half of the special districts.

Taxable resources are very unequally distributed among these units and this inequality will probably become steadily worse as a result of current residential, commercial, industrial plant, and even banking, publishing and research enterprise facilities, moving away from the central cities and being scattered among smaller units.

The more a state is subdivided into small school districts, the greater will be the school finance disparities. This seems obvious from the logical standpoint; it is also demonstrable statistically as can be seen from the following table.

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1 U.S. Bureau of the Census. Governmental Organization. 1967 Census of Governments. Vol. 1. Washington: Government Printing Office, 1968. p. 1 and 11.

School Districts Operating Schools, by States, 1970
(States Listed According to Number of School Districts)

	State	Number of Districts	Range of Assessed Valuation per Pupil	Excess of Expenditures in High over Low Spending Dist.
Group 1. (less than 100)	Dist. of Col.	1	. . .	. . .
	Hawaii	1	(property tax not used for ed.)	. . .
	Nevada	17	4.0 - 1	125 percent
	Maryland	24	2.8 - 1	63
	Delaware	26	5.5 - 1	71
	Alaska	29	3.9 - 1	277
	Rhode Island	40	2.2 - 1	127
	Utah	40	8.6 - 1	184
	West Virginia	55	3.6 - 1	43
	Louisiana	66	13.5 - 1	79
	Florida	67	9.3 - 1	75
	New Mexico	89	21.4 - 1	148
	South Carolina	93	8.8 - 1	54
Group 2. (100 - 199)	Alabama	115	4.5 - 1	68
	Idaho	115	3.0 - 1	272
	Virginia	129	6.8 - 1	155
	Wyoming	132	6.1 - 1	2,255
	Tennessee	147	9.5 - 1	143
	North Carolina	152	3.2 - 1	57
	Mississippi	155	5.2 - 1	192
	New Hampshire	159	4.5 - 1	884
	Connecticut	171	5.7 - 1	163
	Colorado	181	11.4 - 1	531
	Georgia	190	4.7 - 1	102
	Kentucky	192	8.6 - 1	147
Group 3. (200-499)	Maine	239	11.2 - 1	579
	Vermont	252	3.3 - 1	325
	South Dakota	262	9.7 - 1	397
	Arizona	283	22.2 - 1	410
	Kansas	311	182.8 - 1	303
	Indiana	317	17.4 - 1	116
	Washington	320	12.5 - 1	685
	Oregon	349	5.3 - 1	261
	North Dakota	365	1.7 - 1	138
	Massachusetts	379	10.4 - 1	149
	Arkansas	386	10.7 - 1	94
	Iowa	453	5.2 - 1	97
	Wisconsin	455	77.9 - 1	316
Group 4. (500 or more)	Pennsylvania	550	10.5 - 1	190
	New Jersey	573	10.5 - 1	271
	Michigan	626	30.0 - 1	178
	Ohio	631	10.7 - 1	308
	Missouri	647	29.6 - 1	698
	Minnesota	668	5.2 - 1	144
	Oklahoma	668	22.4 - 1	650
	Montana	684	3.1 - 1	218
	New York	742	84.2 - 1	182
	California	1,123	24.6 - 1	324
	Illinois	1,176	20.1 - 1	487
	Texas	1,192	45.1 - 1	1,920
	Nebraska	1,461	19.0 - 1	89

Source: Schools, People, & Money. The Need for Educational Reform. Report of President's Commission on School Finance. 1972. Data have been rearranged to list states in order of number of school districts.

The states are divided almost equally into the four groups: 12 states and the District of Columbia have fewer than 100 school districts; 12 states have from 100 to 199; 13 states have from 200 to 499; and 13 have more than 500. Four of the last group exceed 1,000 districts. Although there are a few striking exceptions, it can be readily seen that the discrepancies among school districts with respect to assessed valuation per pupil tend to be far less in the states with fewer districts. The most shocking disparities in the property tax base are found in the last two groups.

In all of the states with fewer than 100 districts (except Louisiana and New Mexico) variations in the property tax base are less than ten to one. In the next 12 states, with 100 to 199 districts, variations are also less than 10 to one, except in Colorado, where the range is 11.4 to 1.

In all of the 13 states having from 200 to 499 districts, the range exceeds 10 to one, except in Vermont, 3.3 to 1, South Dakota, 9.7 to 1, Oregon, 5.3 to 1, North Dakota, 1.7 to 1, and Iowa, 5.2 to 1. The range in three of the states in this group is greater than in any of the preceding 24 states: Arizona, 22.2 to 1, Wisconsin, 77.9 to 1, and Kansas, 182.8 to 1.

In the 13 states having 500 or more school districts, only Minnesota and Montana have a range of less than 10 to 1. Seven states have a range that is greater than 20 to 1. They are Illinois, 20.1 to 1, Oklahoma, 22.4 to 1, California, 24.6 to 1, Michigan, 30.0 to 1, Texas, 45.1 to 1, and New York, 84.2 to 1.

The six states with a substantial number of districts, but a relatively low discrepancy rate are:

	Number of Districts	Range in Property Tax Base
Vermont	252	3.3 to 1
North Dakota	365	1.7 to 1
Oregon	349	5.3 to 1
Iowa	453	5.2 to 1
Minnesota	668	5.2 to 1
Montana	684	3.1 to 1

This may be due to a more uniform homogeneity of fiscal resources throughout these states. Also, one wonders if such discrepancy-producing factors as exclusionary zoning and industrial decentralization have not yet hit these states as hard as some of the others.

The three states with relatively few districts, but with a discrepancy ratio in assessed valuation of more than 10 to 1 are:

Louisiana	66	13.5 to 1
New Mexico	89	21.4 to 1
Colorado	181	11.4 to 1

That some of the interdistrict discrepancies tend to be diminished by state aid seems apparent from the last column in the table. Nevertheless, it can be readily seen that the excess of expenditure in the high over the low spending district is generally much higher in the last two groups.

The most extraordinary disparities in expenditure are in Texas with 1,192 districts and in Wyoming with only 132.

The number of school districts has decreased substantially in recent decades, as can be seen from the following figures taken from Census reports:

Decrease in School Districts

Year	Number of School Districts
1941-42	108,579
1951-52	67,355
1961-62	34,678
1966-67	21,782

The decrease is apparently continuing as the U.S. Office of Education reported 17,498 districts in its Directory of Public School Systems, 1970.

The New York State Commission on .... Education reported as follows on school districts in that state:

> "....Two important facts stand out. First, the range in size of districts is astonishing. For instance, New York is the nation's largest school district, with more than 1.1 million enrolled students. At the same time, there are several school districts in the state that operate no schools at all. Second, as the educational system in New York grew over the past several decades, the number of school districts decreased.....there were over 9,000 school districts in New York in 1930; by 1970 the number had decreased to approximately 760. This consolidation movement has increased both the efficiency and effectiveness of the educational system. However, further improvement is still possible and desirable. The Commission believes that some existing school districts have pupil enrollment which is too low to justify their continuance as separate operating districts."[1]

The Legislative Analyst, State of California, has shown statistically how disparities among districts could be substantially reduced by unification of districts:

> "While it may be impossible to completely equalize school district tax bases through reorganization, short of establishing one statewide district, many discrepancies in school district wealth could be eliminated by reducing the number of districts in the state. Reorganization could also provide significant financial and administrative advantages while local control over educational policies could be retained in separate sub-boards for those purposes."

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1 Op. cit. p.114.

Table 7

Impact of School District Reorganization on Range in Assessed Valuation per Elementary Average Daily Attendance

Range in assessed valuation per elementary pupil	Present district organization	Countywide unification	Regional unification
High	$1,053,436	$81,229	$28,869
Median	20,083	18,155	15,368
Low	75	8,346	12,743[1]

Property tax administration problems created or aggravated by fragmentation are indicated in other sections of this paper.

1 A. Alan Post and Richard W. Brandsma. "The Legislature's Response to Serrano v. Priest." Pacific Law Journal, Vol. 4. 1973. p. 39.

IV. REACTION OF THE STATES

The rapid-fire succession of court decisions in several states sent shock waves throughout the country, and many states have been dragging out moth-eaten, or recently refurbished, school finance systems to see how far they were out of line with the trend of court rulings; and if so (to a greater or lesser extent, the "if so" applied to almost all of the states) to decide whether the system could be patched up to make do, or whether a brand new approach was necessary.

It is not possible, within the limits of this paper, to give an evaluation, nor even a brief description, of the court actions, special study commission reports, and gubernatorial and special legislative efforts at reform in various states. Activities in a few, however, will be described briefly, and there will be even briefer comments on legislative actions in a few others.

New Jersey -- Confronted With an Ultimatum

In some respects New Jersey is the most interesting state to watch. It is the one state that has so far received a clear and final judicial mandate, at the state level, to break away from local school district financing. Further, Jersey has been, and currently is, the state which apparently relies most heavily upon local school district property taxes.

> "....To the extent of the data [FHA], New Jersey, without question, is the leading state in the nation in property taxation."[1]

The New Jersey Tax Policy Committee stated, also on the basis of FHA data, that New Jersey ranked first among all the states in taxes on existing homes, and sixth in the new home tax category.[2]

A further point of interest is that legal action in New Jersey was initiated because of educational discrimination suffered by children in the cities -- particularly in Jersey City -- and also because of oppressive taxes in the cities. In 1969 Mayor Thomas J. Whelan of Jersey City warned that the state would have to assume the financial responsibility of the city's school system, or the schools would be closed down. Meanwhile, Harold J. Ruvoldt, Jr., a young law clerk in the Appellate Division of the State Supreme Court, who had been concerned over the inequity of school district property taxes, had conferred with James Ryan, Corporation Counsel of Jersey City, concerning the possibility of starting a legal attack on the state's system of financing education.

Mr. Ryan was effective in getting Mayor Whelan's backing over the opposition of the Mayor's lawyers, and he agreed to provide $50,000 to aid the suit. The cities of Paterson, Plainfield, and East Orange later assisted in the case. Kenneth Robinson, a 10-year old black pupil, was selected as plaintiff, because he represented thousands of young black children who were denied a good education because they were in schools suffering from a crumbling tax base.

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1 New Jersey Taxpayers Association. Financing New Jersey State and Local Government. September, 1971.

2 Part II. The Property Tax. p. 12.

On January 10, 1972, State Superior Court Judge Theodore I. Botter in New Jersey held that the school taxing system, based largely on local property taxes, violated both the federal and state constitutions.[1] New Jersey has 578 school districts. Tax bases per student are in the amount of $19,000 in Camden, $20,000 in Trenton, and $23,000 in Paterson; but Englewood Cliffs has a tax base per pupil of $145,132.[2]

On April 3, 1973, the State Supreme Court upheld in a unanimous decision[3] on the Superior Court ruling on the state constitution, but rejected the Botter ruling as it related to the federal constitution. The Court took cognizance of the U.S. Supreme Court's decision in the Rodriguez case on March 21, 1973 and did not find it inconsistent with its own ruling.

As far back as 1871, the New Jersey Legislature had said that local property taxes could not be expected to provide "equal educational opportunity." There is no more evidence today than there was 100 years ago that this approach will succeed," declared Chief Justice Joseph Weingraub in writing the historic decision. The Court's ruling was based on an amendment to the state constitution, approved by the voters in 1875, which says:

> "The Legislature shall provide for the maintenance and support of free public schools for the instruction of all children in the state between the ages of 5 and 18."

In interpreting this amendment, the Court said: "We do not doubt that an equal educational opportunity for children was precisely in mind," and added "it can have no other import." Justice Weintraub underscored the magnitude of the problem by saying: "It would be difficult to imagine a case having greater potential impact on our Federal system."

This momentous decision, which is regarded in the state capitol, as one of the most important rulings ever handed down by the New Jersey Supreme Court, has been followed by a further unanimous ruling on June 19, 1973, that established December 31, 1974, as a deadline for legislative compliance with the April decision. It said that this would allow the legislature to adopt a new system that would begin in July, 1975, and thus take effect for the school year beginning in September, 1975.

On July 16, 1973, the leaders of both houses of the Legislature said they would appeal the decision to the U.S. Supreme Court. Governor Cahill said that he would not join in the appeal as the decision was in agreement with his personal convictions that the present system should be changed to make it "more fair and just and not place an inordinate burden on property taxpayers."[4]

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1 Robinson et al. v. Cahill et al.

2 Ronald Sullivan, "Most Communities in Jersey Facing School-Aid Loss." The N.Y. York Times, January 24, 1972.

3 Robinson et al. v. Cahill et al.

4 The New York Times, August 17, 1973.

The action of the legislative leaders has been called a stalling procedure.

For some die-hards in the state, the Jersey Supreme Court's verdict may constitute a bitter pill, as it seems almost certain to bring a personal income tax in its wake.

Governor William T. Cahill, who is rather ironically named as the defendant in the cases, has fought hard for tax reform in the state. In 1970 he appointed the New Jersey Tax Policy Committee to make a study of the entire tax structure of the state. The Committee submitted its report on February 23, 1972. It consists of five separate parts and a summary volume.[1] A considerable part of the report was devoted to school finance and property taxation.

The Committee found that New Jersey's tax structure was inelastic and regressive, and that the property tax was the chief cause of the major defects in the structure. The Committee recommended that local property taxes be limited to 50¢ per $100 (.5 percent) for county taxes and to $1.50 per $100 (1.5 percent) for municipal purpose taxes, exclusive of debt service and specially voted taxes, for amounts over the standard state-funded program. "These are ceilings to reduce the high present tax rates: most local units will be able to live well below the ceiling rates because of the massive property tax relief program recommended by the Committee."

> "State funding of substantially the full costs of the public schools is one of the main vehicles for property tax reduction. The other is a new municipal block grant system to take care of the 'municipal overburden' or high cost of providing services in an urbanized society. The State would provide sufficient funds for a thorough, efficient standard of education in each local school district. Districts now spending above the standards would be allowed to continue. Local referendum approval should be required for those seeking to increase spending above State support levels (unless the district falls within the exception)."

The Committee devoted special attention to the knotty problem of adjusting the current discrepancies in educational expenditures and provided for some local leeway in school expenditures. In doing this it considered two possible methods: the "locally pooled resources" method and the "state shared cost" method.

> "The second approach, State cost sharing, (which was recommended) would provide absolute equality of resources at a uniform rate for the great majority of districts, and would avoid the obvious objection to the local resource sharing approach. Under an optimum cost sharing approach, the State would provide a district of average wealth with one-half the cost of its local leeway expenditures. For districts of greater or less than average wealth, the State sharing percentage could be varied inversely to the district's wealth per pupil...."[2]

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1 New Jersey Tax Policy Committee. Harry L. Sears. Chairman. William Miller, Chief of Staff. Report. 6 vols. Trenton: 1972.

2 Ibid., Summary, p. 40; Part III. p. 45.

Recapitulating the basic provisions of the New Jersey Report relating to school finance and the property tax: (1) state funding of public school costs, except for a portion of local leeway costs; (2) limitations on local property tax rates; (3) revenues for state financing of education to be raised by a 1 percent state property tax and by nonproperty taxes; (4) a new municipal block grant system to take care of the "Municipal overburden"; and (5) various improvements in property tax administration.

On May 18, 1972 Governor Cahill presented to the Legislature proposals for the revision of the state and local tax structure, which included most of the major recommendations of the Committee. On July 18 of that year, the income tax proposal, which was the key measure in the package, was overwhelmingly defeated in the Assembly and the entire reform proposal was shelved.

Although the Cahill reform program was endorsed by the two most recent governors (one a Democrat and one a Republican), farmers, teachers, churches, and most of the newspapers, it had bitter grass-roots opposition "particularly in the cities and in the blue-collar neighborhoods that would benefit most from the plan."[1]

In 1973, Representative Charles W. Sandman defeated Governor Cahill in the Republican primary by taking a strong no-income tax position. As the New Jersey Legislature faces up to its day of reckoning, however, it is likely that the Report of the New Jersey Tax Policy Committee will be re-examined with particular care.

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1 Ronald Sullivan. "They Don't Like Taxes, But Then Who Does?" The New York Times, June 18, 1972.

New York Concerned But Not Under Mandate -- A Monumental Report

The neighboring state of New York faces a different mix of problems. The situation is less urgent legally, but more difficult fiscally.

So far it has escaped a judicial mandate. On January 20, 1972, Justice Joseph F. Hawkins (New York State Supreme Court, Westchester County) dismissed a legal challenge to the constitutionality of the public school financing system in the state.[1] The suit, however, was initiated on the legal ground of educational needs, rather than the more precise one of educational expenditure as a function of local wealth, which was used in California. Whether a suit brought on the grounds of education expenditures as a function of local wealth would be upheld remains to be seen. Certainly, however, there seems no reason to believe that activist efforts to overturn local school district financing will lessen.

New York has a greater number of school districts (742 compared to 573 in Jersey), and it has a far greater discrepancy in ratios of assessed valuation per pupil (84.2 to 1, as compared to 10.5 to 1 in New Jersey). Due to generous state aid, however, the excess in expenditures in high over low spending districts is much less: $182 in New York compared to $271 in New Jersey.

But the really critical problem in New York is financial. Although New Jersey has considerable unused revenue potential (principally in relation to a tax on personal incomes) if it chooses to utilize it, New York is already utilizing all of the major tax sources. It has relatively little leeway.

In late 1969 Governor Nelson A. Rockefeller and the State Board of Regents jointly appointed the New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education. The Commission issued its report in 1972.[2]

The Commission stated its belief that responsibility for raising educational revenues belongs to the state, and that the state's responsibility can no longer be met by leaving to each school district the decision of how , and how much, revenue is to be raised; and that full state funding can be accomplished by means of any form of taxation, provided it is fairly administered throughout the state.

> "Full state funding makes possible, though it does not automatically provide, more effective controls over expenditures. It permits the state to invest in improvement in quality at a rate consonant with the growth of the over-all economy of the state. It eliminates the present competition among wealthy districts for the most elaborate schoolhouse and similar luxuries."

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1 Spano v. Board of Education., 328 N.Y.S. 2d 229 (Sup. Ct. (1972).

2 Report. Vol 1. Albany: 1972. Manly Fleischmann, Chairman. Charles S. Benson, Staff Director.

The Commission claimed that:

"The New York State school system does not provide educational equality. In fact, its structure insures the continuance of basic inequality in educational revenue raising and expenditure."

"Suffice it to say that expenditures per pupil throughout the state tend to vary directly with the value of taxable property and that the state aid formula does not in fact eliminate large discrepancies in per-pupil expenditure."

The Commission recommended full state funding, except for "that amount of money which the Federal Government shall contribute."

The Commission rejected the present use of weighted average daily attendance on the grounds that it discriminated unfairly against districts that show high rates of truancy and drop-out; and that the "pedagogical wisdom of weighting secondary students more heavily than elementary students is questionable: we suspect that in many instances it might be good policy to spend more money per student in the elementary grades than in the secondary...."

The second major recommendation of the Commission was that all local option for supplementary school levies be terminated. The higher spending districts were to be saved harmless by being allowed to continue spending an amount per student equivalent to their present level, but they would not be allowed to increase their spending until the statewide level rises to their level. The Commission proposed that leveling-up be accomplished in increments of 15 percent of the established statewide base expenditure level. Their calculations indicated that all districts throughout the state, except one, would be leveled up by the third year, and the remaining district would be brought up to the level by the fourth year.

Unlike the Jersey Committee, the N.Y. Commission relied entirely on the property tax (this is a tax on real property, as New York does not permit personal property taxation), and recommended a statewide school property tax set initially at approximately $2.04 (2.04 percent). The Commission also urged that the state tax rate be frozen.

Legislative leaders in Albany announced on January 29 that the Commission Report was food for thought and not action. The latter part of this statement appears to be a plausible forecast. One wonders if anything short of a judicial mandate will force the legislature to correct the present injustices. Meanwhile, however, the state is increasing its aid to schools.

Connecticut -- Also Concerned

Connecticut is the third state into which the vast New York metropolitan region extends. It too has shown sufficient concern to have an able commission study the problem and make recommendations.

Referring back to the fragmentation table in Section III of this paper, we see that Connecticut has 171 local school districts; the range of assessed value per pupil is 5.7 to 1; and the excess of expenditures in the highest over the lowest spending district is 163 percent. Disparities in the taxable base and in expenditure extremes are far less than in many other states. Nevertheless, the Commission found that the public school finance system is inequitable, inherently unequal; perhaps unconstitutional, inequities are becoming greater; and that it includes no effective mechanism for providing special educational efforts to achieve equal opportunity for many children.

Governor Thomas J. Meskill appointed The Governor's Commission on Tax Reform on June 15, 1972. It submitted its report on December 1, 1972.[1]

The Connecticut Commission, like that in New York, concluded that "the property tax should continue to be the appropriate main source of revenue for local schools and other municipal services." Other important conclusions were that a system of classification of property for differential taxation was not suitable for Connecticut; that the alleged advantages of site value taxation have not been proved and that conversion to such a system was not appropriate for the mature economy of Connecticut; that enactment of its recommendations relating to uniform assessment and administration of the property tax and its recommendations concerning municipal fiscal practices will be more effective in controlling property tax rates than any imposed limitations; that a circuitbreaker form of relief (up to $500) be granted to elderly homeowners; that the tax on further acquisitions of personal property be eliminated except for motor vehicles, rolling stock of contractors, aircraft, and the personal property of public service companies; that no attempt be made to tax exempt institutions at full rates, but that such institutions, other than federal and state agencies, should pay for use of municipal services; that the block grant programs to core cities be maintained and expanded; and that funds made available through recommended programs be used to roll back property taxes "so as to encourage new investment and eas the burden on homeowners."

The Commission pointed out that Connecticut relies heavily on the property tax. "In 1970, for instance, only three states (Massachusetts, New Hampshire and New Jersey) raised a higher percentage of their state and local own-source revenues from the property tax than did Connecticut."

It pointed out that until adequate methods of measuring the tax rates in various towns and cities in Connecticut are adopted, the answer to the question whether property tax rates are too high will not be forthcoming. Towns in the state have rates varying from a low of 19.2 mills (1.92 percent) to 94 mills (9.4 percent) and that "true" mill rates range from less than 13 mills (1.3 percent) to nearly 49 mills (4.9 percent).

The Commission believed that its proposals for revisions in the school finance system and aid to municipalities will significantly reduce tax rate disparities.

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1 Francis E. Baker, Jr., Chairman; John E. Tarrant, Research Director. 3 vols. and summary. Volume II was devoted to Local Government: Schools and Property. 127 p.

It concluded that although the present level of property taxes in Connecticut is high, it is not uniformly onerous and that a general reduction "either through a transfer of burden or through direct relief is not appropriate to the overall State-local situation."

For equalizing fiscal and educational disparities among school districts, the Commission proposed an ingenious and rather complex method which it called the "school finance equalization plan," and which it proposed to finance through a "State Equal Educational Opportunity Fund," conveniently labeled SEEOF.

The Commission describes the plan as follors:

"A. Each town would separate school expenditures from other local government funds and calculate school tax rates separately from the general government tax rate; only the school portion would be affected by the new system.

"B. SEEOF would determine, based on property value per student across the State, what the average yield per student per mill would be if a uniform property tax for school finance were to be imposed across the State of Connecticut.

"C. This average yield would be translated into a schedule correlating mill rates with yield per student.....

"D. Based on this schedule, SEEOF would work to a situation where every town in the State, in the long run, would be guaranteed no less than the above yield per student correlated with each mill rate and where each town in the State would be able to spend no more than the above amount as determined by its tax rate.

"E. Each town would continue to set its own tax rate and administer all funds raised by the property tax (whether locally or through SEEOF) just as is done now.

"F. Equal availability of funds would result throughout the State, at equal tax rates, with the exception of students in need of costly special educational services; each student in this category would entitle a town to 25% more than the State average yield per mill.

"The key element in this proposal is the establishment of automatic mechanisms by which school expenditure opportunities can be equalized over time .... without extra State government expenditures, substantial equalization would be achieved in approximately 15 years, while alternative levels of outside funding would permit the State to reach substantially equal spending opportunity in 5-10 years.

"....the Commission emphasizes here that this proposal will not equalize educational spending. It provides equal opportunity for educational expenditures, but each town determines its own tax rate and spending level.."

"....the Commission recommends that a goal of substantial equality of school finance capability within 10 years be established at the time the new system is adopted, and that a commitment be made to provide sufficient funds

as needed to achieve this goal. Substantial equality should be defined as the point at which 90% of the towns in the State are assured an effective yield per mill per pupil within 10% of the State average yield ...."

An interesting feature of the SEEOF plan is that it constitutes a type of sharing-the-tax-base slightly related to the plan which was adopted by the Minnesota Legislature in 1971,[1] but SEEOF applies the increase in base only to school finances.

"....the yield per mill per student is increasing in most towns almost every year, and these increasing amounts would be paid to SEEOF as the increase occurred. SEEOF would be collecting, for redistribution, the benefits of all increases in property values in the State as reflected in the yield at whatever tax rates the individual towns chose....."

The tax base so shared, however, would apply only to school costs. It would, therefore, limit, but not wipe out, industrial competition. Although the relationship to industrial development is not as explicitly spelled out, as in the Minnesota plan, the Commission members were acutely aware of the present distortion of industrial and residential planning resulting from fragmentation of local units and excessive reliance on the local property tax, resulting in intense interlocal competition for developments that would increase the property tax base. For example:

"The current school finance system shapes community development decisions in such a way as to (1) segregate families by income range, (2) limit the effectiveness of our schools through the segregation by income, and (3) create incentive for tax inequities, economic segregation, and educational inequality to become worse rather than better.

"The current property tax system -- which creates very substantial differentials among towns as to tax rate and school expenditure -- provides a substantial incentive for industrial and commercial developers or enterprises to concentrate in towns with low tax rates, enabling those towns to reduce their tax rates even further without reducing local government services or school budgets. In addition, the combination of low tax rates and high school expenditures prevailing in those same towns provides a very significant incentive -- in many cases the dominant factor in the decision -- for affluent families to build or buy housing in such towns. The incentives attract business and private property owners, increasing land prices; businesses constructing large facilities can afford to pay and individuals building expensive homes can afford to pay -- because the tax savings are so great -- but a person constructing an average house ($20,000 to $25,000 construction cost) cannot afford the higher land cost."

Commission members were clearly aware that accurate assessment was vital to the functioning of the proposed plan, and gave considerable attention to this problem. Although they did not recommend state assessment, they did recognize that state would have to assume responsibility for seeing that local assessments were equitable.

Criticisms of the present system are spelled out and a lengthy list of reforms is proposed.[2]

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1 The Minnesota plan provides that every local government in the Twin Cities area will have access to 40 percent of the net growth of the commercial-industrial base of the entire area.

2 The quoted material is taken from the following pages of the report in the order named: 4-6; 7; 11; 15; 66-67; 68; 69; 60-61; 93-115.

California: Where the Upheaval Started

California felt the first major impact of legal activism directed against local property tax financing of public schools. On August 30, 1971, the California Supreme Court held that the local property tax system of financing schools was unconstitutional "because it makes the quality of a child's education a function of the wealth of his parents and his neighbors."[1] The plaintiffs were the Los Angeles County public school children and their parents. Defendants were the Treasurer, the Superintendent of Public Instruction, and the Controller of the State of California, and also the Tax Collector, the Treasurer, and the Superintendent of Schools of Los Angeles County.

On October 18, the State Superintendent of Public Instruction and the State Controller announced that they would oppose any effort to appeal, and said; "We agree with the decision's principles and reasoning, and we think it is long overdue." On October 21 the California Supreme Court modified its decision by ruling that the existing property tax system for supporting the public schools was still valid, and that its decision was not a final judgment. It had only ordered the case returned to a trail court for further proceedings; and that if the trial court subsequently finds the system of public school financing to be unconstitutional, it should provide for an orderly transition to a new system.[3]

The impact of this decision reverberated like a thunderbolt, not only in California, but throughout the country. The word "Serrano" entered our vocabulary and became the most overworked on the conference circuit.

At the 1971 conference of the International Association of Assessing Officers, Dr. Harold Webb, Executive Director of the National School Boards Association, said that the basic problem of financing education "is that we are trying to cope with today's problems with yesterday's methods.

> "While management and support of education have traditionally been a local responsibility, the realities of modern life demonstrate that concern with education goes beyond local boundaries."

In introducing Dr. Webb, Philip E. Watson, Vice President of the Association and Los Angeles County Assessor, said that the California court decision "places several groups at a crossroad; the legislature, which is caught between providing long-promised relief to the property taxpayer and finding a new way to finance the public school system; the assessors, who are facing the spectre of a statewide property tax levy; and school districts, which are beginning to realize that local control of schools has, in fact, ended."[4]

California, with 1,123 school districts, is one of the four states having the greatest number of such units. It is one of seven states having the widest range of property values per pupil. The range in California is 24.6 to 1. It is one of 12 states where the excess of expenditures in the high spending district is 324 percent or more than in the low spending district.

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1 Serrano v. Priest, 5 Cal.3d 584, 487 P. 2d 1241 (1971).
2 The New York Times, October 19, 1971.
3 The New York Times, October 22, 1971, p. 15
4 International Association of Assessing Officers. "Repercussion of California Tax Ruling Discussed at Third General Session, IAAO Newsletter, 37(November,1971), 186.

"Currently wide disparities exist among California school districts in their ability to support educational programs as measured by assessed valuation per pupil....

Assessed Valuation per Pupil
1970-71

District Level	Low	Median	High
Elementary	$ 75	$20,083	$1,053,436
High School	8,836	42,777	355,513

"As one might expect, these wide variations in district tax bases result in significant variations in the school tax rates which property owners are required to bear .....

Range of Tax Rates for Public School Districts
1970-71

District Level	Low	Median	High
Elementary	$0.39	$2.35	$5.16
High School	0.83	2.15	3.14
Unified	1.08	4.50	7.83

"The various levels of taxable wealth and district tax rates working together result in a wide range of per pupil expenditures .....

Range of School District Current Expenditures Per Pupil
1970-71

District Level	Low	High
Elementary	$420	$3,447
High School	766	1,879
Unified	597	2,448

"In some cases districts with low expenditure levels have correspondingly low tax rates. More often, however, the opposite is true; districts with unusually low expenditures are forced to have unusually high tax rates because of their limited tax bases...."[1]

Property taxes produced 47 percent of all state and local tax revenues in California in 1970. Only 12 states exceeded California in such heavy reliance on the property tax. Property taxes per capita ($262.16 in fiscal 1970) were the highest in the nation. The California property tax was also particularly burdensome in other ways.[2]

On any count, therefore, the California tax burden and discrepancies are great. Apparently, only Illinois, Texas, and Nebraska could surpass California in number of school districts; only six states had greater variations in assessed value per pupil; and only 11 states had a greater excess of expenditure in high spending over low spending districts. The state was, therefore, a likely target for legal activists.

1 A. Alan Post and Richard W. Brandsma. "The Legislature's Response to Serrano v. Priest." Pacific Law Journal. 1973. Vol. 4. p. p. 32-33.

2 Final Report to the Senate Select Committee on School Finance, June 12, 1972. p. 13.

That the disparities result largely from fragmentation is plainly indicated:

> "....under the present system, the assessed valuation per pupil ranges from a high of $1,053,436 to a low of $75. If, for example, California school districts were unified on a county-wide basis, the range would be from a high of $81,229 per pupil to a low of $8,346 per pupil. Alternatively, if the districts were reorganized into the twelve regions established in the state under current law for vocational education planning, the range would be from a high of $28,869 per pupil to a low of $12,743 per pupil ...."[1]

On June 12, 1972, the Consultant Staff submitted its Final Report to the Senate Select Committee on School District Finance. Charles S. Benson was senior consultant to the staff.

Two alternative methods of meeting the financing problem, as posed by the Serrano decision, were considered in the report. They were full state funding and district power equalizing. The latter method was recommended.

The staff further recommended the "circuit breaker" type of relief to taxpayers. It also proposed that the state pay the full cost of transportation, construction, food services, and children's centers.

To some extent California has followed a wait-and-see attitude until the Rodriguez case was determined by the U.S. Supreme Court. In December, 1972, the legislature substantially increased state aid (S.B. 90). According to a state official (in a letter to this writer): "It reduced inequalities, but left big ones." The Serrano case is back in trial court.

Texas -- A State of Confusion in School Finance

Court action respecting school finance disparities in Texas has taken place in federal, rather than in state, courts. In December, 1971, the U.S. District Court, Western District of Texas, San Antonio Division, held that the system of financing public education in Texas discriminated on the basis of wealth and violated the equal protection clause of the Fourteenth Amendment. This decision was appealed to the U.S. Supreme Court which reversed the lower court on March 21, 1973. Inequalities were acknowledge by the Supreme Court, but it held that any change "must come from the lawmakers and from the democratic pressures from those who elect them."

In reading various documents concerning school finance in Texas, a nonresident of that state is likely to become more and more confused. That there is some justification for this reaction can be seen from the following quotation:

> "The Attorney General of Texas, appealing the lower court decision in Rodriguez .... advanced one fact about which there can be little disagreement: 'The financing of the public school system and the operation of the Minimum Foundation Program is a very complex undertaking and many problems are presented.'
>
> "So complex is the undertaking, in fact, that it has virtually defied comprehension by school officials, legislators, and researchers, much less by citizens and taxpayers."[2]

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1 Post and Brandsma. op. cit. p. 38.

2 2nd Interim Report. November, 1972. p. 1. (See following note.)

In June, 1971, the Texas Research League (a nonprofit educational organization engaged in objective analysis of the operations, programs, and problems of Texas government) was requested by the Texas Advisory Commission on Intergovernmental Relations to make a study of Public Education Revenue Sources. The League has submitted three interim reports.[1] A final report will analyze specific legislative proposals for achieving better resources and/or spending equalization among Texas school districts.

In 1970 Texas had 1,192 school districts,[2] which was more than any other state, except Nebraska, which had 1,461. (Illinois with 1,176 and California with 1,123 came next, followed by New York with 742.) The excess of expenditures in the high over the low spending district was 1,920 percent, far more than in any other state except Wyoming.

Expenditures for public school education increased from $750 million in 1960 to $2.1 billion in 1970-71. This amount was derived as follows: federal government, 10.9 percent, state 48.0 percent, and local governments (counties and school districts) 41.1 percent. The State Foundation Program provided $875 million of the $1 billion state contribution. The Foundation Program, here as in other states, was designed to provide a minimum or basic educational program for each school age child. It did not attempt to restrict or equalize local efforts. The program was adopted in 1949. "The expenditure gap between rich and poor districts grew steadily from 1949 to 1969."[3]

The Texas Research League comments:

> "Unfortunately, tinkering with the Foundation Program over the years has so eroded the basic formula devised by the Gilmer-Aikin Committee in 1948 that the State school aid system no longer functions effectively as a rational plan for guaranteeing equal minimum educational opportunities among the districts. If the Foundation Program has had a 'mildly equalizing effect,' it also produces some peculiar variations in fiscal resources for which there are no simple explanations."[4]

The League recommended in a report in 1957 that the foundation program be expanded to cover most of the personnel, operating expenditures, and salary supplements provided in the more affluent districts, and that part of the increased cost of the expanded program be financed by requiring larger contributions to their programs by districts with greater than average taxpaying ability in order to close the gap between the districts operating at the Foundation level and districts affluent enough to operate at a much higher level. This is somewhat similar to proposals that have been made in some recent reports in other states. This recommendation was also favored by the Governor's Committee on Public School Education in 1968. It was not adopted by the legislature.[5]

No attempt will be made in this paper to describe the vagaries of the Texas school finance system, but some indication of them can be derived from the following quotations.

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1 Texas Research League. Public School Finance Problems in Texas. An Interim Report, June, 1972; Texas Public School Finance: A Majority of Exceptions, 2d Interim Report, November, 1972: Texas Public School Finance: Fewer Students: More Money. April, 1973.

2 Figures in this paragraph have been taken from the Report of the President's Commission as cited in table in Section III of this paper.

3 Texas Research League. An Interim Report, June, 1972. p. 11

4 _____ TRL Analyzes. November, 1972. p. 2

5 _____ June, 1972, p.3

In attempting to relate foundation aid to taxpaying ability, the state had no way of measuring local taxpaying ability. "It was agreed that local assessment practices varied so widely as to make comparison on that basis out of the question." A complex substitute formula was devised.

> "This involved, indirect procedure for equalizing local participation in the Foundation Program is unique among the states. The formula blends a variety of heterogeneous data about unlike factors (students and mineral production, for example) taken from different time periods. The result has no demonstrated relationship to property taxpaying capacity. Yet the proposed system still was fairly simple in principle compared to its actual implementation...."

Further compounding of the school finance complexities resulted from a series of "credits." The Legislature added these to reduce the computed local fund assignment, and raise state aid for several types of districts. The credits softened the impact of increased taxes required.

> "Resourceful school district officials, taxpayers and their elected representatives have persuaded the Legislature to allow credits or adjustments in districts containing national forests, armed service bases and Indian reservations (of which there are none), state prisons and university lands, specific types of water reservoirs, feed lots for cattle, and children in orphan homes. But the most costly 'credit' provision is the Foundation Program formulas in the so-called 'maximum tax rate limitation'...
>
> "Immediately after the Foundation Program was adopted, a few independent districts began claiming the maximum tax rate credit to which they would have been entitled, if they had been common districts. Except in rare instances, independent districts have their own tax rolls which are based on much higher ratios to true values than the counties use. (One of the primary reasons for converting from common to independent status is to be able to increase the level of local taxes.) But by pretending that their taxable property resources are limited to the level fixed by the county, 158 independent districts were able to reduce their local fund assignments by a total of more than $21 million in 1971-72 -- and to increase their state aid by a like amount. Only 13 districts which actually used the county tax roll qualified for the credit (totalling less than $50,000)."

The Texas Research League prophesies:

> "It is safe to predict that future legislative efforts to reduce the resource gap between rich and poor districts will seek to retain the benefits now enjoyed under the present Foundation Program formulas by favored districts. ...."

And again:

> "Regardless of the outcome of the Rodriguez suit, it seems very likely that the issue of taxpayer equity in the support of public education will have to be resolved -- perhaps before the goal of resource equalization can be realized."

The League points out that:

> "In any reform movement aimed at equalizing resources among districts

and improving equity among taxpayers, the existing loopholes, special subsidies and differential benefits should be eliminated unless it can be proved that they have some rational relationship either to educational need or to actual taxpaying ability.

"If the estimated market value of property taxed by the school districts becomes the basis for equalization plans, the latitude for local enrichment of state-supported programs will make it impossible to achieve reasonable equalization of resources without some modification of the local tax base and/or some limit on local taxing authority in the most affluent districts."[1]

We shall have to await the League's final report for the League's evaluation of legislative responses to the situation. Meanwhile, in response to a request for information on what was now happening since the Rodriguez decision, a length reply was received from Dr. Glenn H. Ivy, Director of Research, Texas Research League. Following are extracts from his letter of July 20, 1973:

"The Legislature considered two major bills (one drafted by the teachers' organization, the other by the Governor's office) aimed at responding to the Rodriguez problems. A 'do-nothing' compromise providing a few more operating dollars through the existing formulas (plus a study authorization) failed in the closing hours.

"The Governor has announced that he will have a study made anyway, and has employed a research man capable of doing a good job within whatever resources, time and directives he may receive. In addition, the Legislative Property Tax Committee (with some lay members -- and about $700,000 in funds) is supposed to be concenstrating on measuring local taxpaying capacity (without any sales reporting requirement, and not much in the way of hard data from any other source)....

"An Interim Committee of the House is conducting hearings aimed at keeping the equalization issue alive, and pressuring the Governor to call a Special Session to deal with the issue -- which he has repeatedly refused to do. The Senate Education Committee also has started another study .... recommendations [from an earlier study] never were considered in the Legislature."

"The Education Committee of the Constitutional Revision Commission has adopted proposed changes to mandate 'fiscal neutrality' in State school finance (the quality of education shall not be a function of wealth other than the wealth of the State as a whole), plus requiring consideration of state and local government tax efforts in the support of other public services (aiming at the 'municipal overburden' problem). That proposed language will have to clear the full Commission, be acted upon by the Legislature sitting as a Constitutional Convention next spring, and finally be adopted by popular election before it would become operative.

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1 The quoted material is from Texas Research League. 2nd Interim Report, p. 6, 7, 8, 10, 33, 54.

"Texas still has a school finance suit pending in a federal district court in Ft. Worth. It was filed by the Fort Worth, Dallas and Houston school districts, plus parents, students, teachers, etc., challenging our present yardstick for distributing State aid. The suit has been pending for more than two years ..... The big districts lately have become eligible for a special credit provision which yields them several million dollars in extra state funds. We think the credit is illegal, because it was designed for small rural districts, but nobody seems prepared to challenge the State Education Agency's ruling. The suit contends that the calculated local share of the Foundation School Program actually is a State-imposed, locally collected property tax, with the district shares computed according to an Economic Index which does not accurately measure local property taxpaying ability.

"As far as I know, no other court action based on the existing State Constitution is planned at this time, although the Texas Constitution is not much different from those in California, Michigan, Kansas and New Jersey.

"The crux of the financing problem in Texas is not really the rich-poor urban district issue presented in the Rodriguez case. That issue would be relatively simple to solve. The problem lies in how to equalize property tax support between urban and rural districts -- particularly when the rural districts have large areas of 'undeveloped' land with oil reserves and/or standing commercial timber. Of course, the farmers and ranchers also are concerned. It was the proposal to equalize local shares of the Foundation Program on the basis of market value of property that produced the impasse. The rural interests countered by demanding that intangibles be taxed at full value, since we have a general property tax. Until we find some solution to that conflict, not much is apt to happen, in our judgment.

"The State of Texas already is committed to increasing its support of public education by about $500 million a year within six years -- through mandated salary increases in 1974 and 1978, and the addition of about 16,000 positions to the Foundation Program. That, plus other prospective State spending increases probably will trigger a tax crisis in 1975 and make the equalization solution harder than ever. On top of the existing commitments, the Teachers' Association bill would have added another 25,000 jobs and other spending increases totalling nearly $600 million for the State in six years. Less than 40 percent of the total would have gone for 'equalization' between rich and poor districts, but the bill passed the House and will be a major issue in the 1974 elections. If the picture sounds confused, you have gotten the message. I suspect the Legislature may appropriate more money for public education in 1975, but whether there will be any real reforms in the State-local finance system without further court action seems somewhat doubtful."

Legislative Efforts in Some Other States

Space does not permit an evaluation, nor even a description, of the court actions, special study commission reports, and gubernatorial and legislative efforts at school finance reform in various states. It should be realized, however, that by no means all of the agitation in the related fields of school finance and property tax reform stem from court decisions. This is particularly true of efforts at property tax reform. Concerned persons, both inside and outside

government, have been working in this area for decades; and in some states have achieved solid accomplishments. The major accomplishments have not been sparked by school finance decisions, although some have resulted from court decisions relating to assessments. The school finance issue, however, has brought increasing recognition of the need for the state to take a more active role in improving property tax administration.

Some states have been thrown into a ferment of agitation and activity by the decisions, and have rushed through legislation, which some of their citizens have considered unworkable. At least five states (Maine, Montana, Kansas, Illinois, and Utah) have adopted school finance reform legislation along the lines of district power equalizing.

Maine (239 school districts; range of assessed valuation, 11.2 to 1)

The Maine legislation, approved June 22, 1973, may be the most noteworthy both on the basis of securing equal educational opportunity and in relieving property taxpayers. It is, moreover, fiscally defensible and is also considerably more understandable than legislative efforts in some other states.

Statewide funding of all current and capital outlays and debt services will be provided, beginning in fiscal 1975. The measure is intended to decrease reliance on the property tax for operating costs to 40 percent of total costs within three years. A local property tax levy is set currently at 14 mills (1.4 percent) at full valuation. Local add-ons limited to 2.5 mills (0.25 percent) will be permitted and power equalized. For each of these mills the state will guarantee $50 per pupil, and any local yield above this amount will revert to the state treasury. Municipalities which have been levying less than 14 mills will be required to raise their levy by 2.5 mills each year until they reach the required level. The number of pupils are calculated on the basis of enrollments. For school districts with per pupil costs in excess of the guaranteed level, the state will pay one-half the excess. These districts will be allowed to raise additional local revenues, exclusive of the 2.5 mill leeway, subject to voter approval, to finance their 1973-74 expenditures. A lid is place on future increases above the state guaranteed level.

Federal revenue sharing funds have been earmarked for education, and the remainder will come from an existing state general fund surplus. Funding beyond the first year will depend on legislative appropriations.

Montana (684 school districts; range of assessed valuation per pupil, 3.1 to 1)

Montana, like Texas, has rural areas that are rich in natural resources. H.B. 428, enacted in March, 1973, requires all counties to levy a minimum school property tax of 40 mills (4 percent on 30% valuation for support of the foundation program in elementary school districts and 15 mills (1.5 percent) for high school districts. Tax rates in mineral-rich counties have previously rarely exceeded 20 mills (2 percent). Any revenue yields above those required for the foundation programs and transportation charges will be transferred to the state in support of its foundation program.

State support is financed from a general appropriation and from the following earmarked taxes: one-fourth of income tax receipts, half of gas and oil royalties paid by the federal government, and receipts from corporate license taxes. Whenever state appropriations are insufficient to support the program, the

act authorizes a new state property tax. This new levy, if needed, will vary according to the needs of the foundation program.

Any school district may impose an additional ("permissive") property tax levy up to 9 mills (0.9 percent) for secondary schools and 6 mills (0.6 percent) for high school districts. Such levies do not require voter approval. These permissive levies could, therefore, add up to 1.5 percent, in addition to the 5.5 percent, making a combined total of 7 percent for public schools. If the maximum permissive levies do not yield an amount equal to 25 percent of the guaranteed foundation program the state will reimburse the district for the difference.

The state will maintain a separate permissive levy account which will be financed by a statewide property tax.

School districts may impose additional levies to finance capital outlays. There was no attempt to equalize such outlays.

Kansas (311 school districts; range of assessed valuation per pupil, 182.8 to 1)

Kansas Sub. S.B. 92, approved on April 16, 1973, will increase the state share of total school district general fund budgets to about 48 percent compared to a 29 percent share in 1972-73. The state guarantees a per pupil operating budget of $728 for districts with 1,300 and over enrollment and of $936 for districts with enrollment under 400, if a district makes a tax effort of 1.5 percent on value of property and taxable income. No new state revenues are imposed for this purpose, nor will federal revenue sharing funds be used. The increased demands will be met from existing general revenue fund surpluses.

Illinois (1,176 school districts; range of assessed valuation per pupil, 20.1 to 1)

H.B. 1484 attempts to raise the state's level of support to more than 50 percent of operating costs by 1976-77.

> "The goal is to guarantee $1,260 in weighted aid per pupil by calculating state aid so that each school district would have the resources of a district with an ideal assessed valuation per pupil. The standard varies with the form of district (unit or dual) and local tax efforts are required to be adjusted.
>
> "For example, unit districts such as Chicago are to use $42,000 assessed valuation per pupil and a tax effort of $3.00 from all operating funds as standards for calculating their aid claim. If they are below $3.00, they must increase their tax effort in order to achieve maximum state aid, and if above that figure, must reduce the local tax effort. However, those districts wishing to expend greater tax effort are given a 15 percent flexibility factor. In order to phase the system into operation and ease the financial impact on the state, no district can receive in any one year more than a 25 percent increase over the prior year's state aid claim."[1]

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1 The Civic Federation. On Record. "Legislation and the 78th General Assembly. Bulletin 820. August, 1973. p. 405.

The Civic Federation calls this measure "Perhaps the most significant piece of legislation to come out of the session ....." The Federation also points out that "there was genuine concern and considerable activity by many legislators in the area of property tax relief and reform." A Joint Revenue Committee on Property Tax Reform and a Local Government Tax Study Commission were established.[1]

Utah (40 school districts; range of assessed valuation per pupil, 8.6 to 1)

According to some critics in Utah, that state anticipated a U.S. Supreme Court verdict upholding the lower court Rodriguez decision and rushed through legislation that is unworkable.

S.B. 72 provides a guarantee to districts of $508 per pupil. The yield of a 28 mill (2.8 percent) district property tax is charged back against the guarantee, with the provision that the districts must rebate to the state any yields from the levy that are in excess of the guarantee. A voter authorized local leeway tax of 10 mills (1 percent) is also equalized by the state, but to a lesser degree. The state share of total public elementary and secondary school costs will increase to a level in excess of 70 percent.

Approximately half of the state spending increase will be met with the state's portion of federal revenue sharing funds, all of which has been pledged to the state school fund. The balance of costs will be met from existing state revenues.

It is claimed by the Utah Foundation (a private, nonprofit public service agency established to study and to encourage the study of state and local government in Utah) that:

> "The 1973 school finance act .... will begin as an extremely complex measure that will be fully understood by only a few professionals. For example, the pupil distribution concept will be adjusted for (1) small classes, (2) handicapped children, (3) students in vocational classes, (4) teachers with added training and experience, and other factors. In most cases, the formula accompanying each of these adjustment factors is also very complicated. There are, for example, ten different classes of handicapped children listed in the law with separate weightings applying in each case as well as for children in regular classes and for children in selfcontained classes.
>
> "Because of the increased complexity of the new school finance law, there is a likelihood that some districts may realize an unfair advantage in the distribution of funds at the expense of other districts. Indeed, the new law will place a premium on those districts which have individuals thoroughly familiar with the intricacies of the new law. It will also necessitate an involved auditing system, if the law is to be administered uniformly among the forty Utah school districts."[2]

1 Ibid., p. 1

2 Utah Foundation. Research Report. No. 18 "The 1973-74 School Finance Program," April, 1973. p. 136

The Utah Taxpayers Association commented in February, 1973:

> "The test of a good school formula is if taxpayers can understand at a budget hearing how they are taxed and how their money is spent. SB72 has complicated the formula so that not even school administrators can understand it, let along taxpayers."[1]
>
> "Shortly following passage of Utah's new school finance law, The U.S. Supreme Court on March 21, 1973, overruled a lower court decision and declared that the traditional school finance laws were not unconstitutional .....
>
> "Although this .... ruling will remove legal pressure for revision and may slow down the school finance reforms in other states, it will in no way affect the recent legislative action taken in Utah. The new law will become effective on July 1, 1973, and will be operative during the 1973-74 school year."[2]

Oregon (349 school districts; range of assessed valuation per pupil, 5.3 to 1)

In Oregon a proposed constitutional amendment (HJR 3), which would have made radical changes in tax support for schools, was overwhelmingly rejected by voters in a public referendum on May 1, 1973. The measure was extremely complicated and difficult to understand and there was no agreement concerning the potential impact of the proposed revenue measure.

It would have limited property tax levies for education at Grade 12 or below by any taxing unit and would have permitted a state school property tax of $10 per $1,000 (1 percent) of true cash value. School districts would have been allowed to levy a tax of not more than $2 per $1,000 (0.2 percent) without approval by voters. The measure was supposed to sharply reduce taxes on homes, but would have increased both personal and corporate income taxes and also would have imposed new taxeson real estate and profits. The state would have been made responsible for 95 percent of school operating costs. Apparently, there was general confusion and lack of understanding concerning the details and implications of the measure. Oregon Tax Research, a statewide, nonpartisan taxpayer association, stated in its monthly publication that the most common request received by it was for a simple one-page summary of the effects of the proposed legislation. It said: "any simple summary would be inadequate or incorrect, if not misleading."[3]

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1 Utah Taxpayers Association. UTA News. Bulletin 2, February 1, 1973. p. 1

2 Utah Foundation. op. cit., p. 132

3 "May Day -- Tax Rev - or Evolution," Your Taxes. April, 1973. p. 1.

V. CRITIQUE OF VARIOUS PROPOSALS

The reform proposals and laws cannot be evaluated at face value. Some fundamental questions in gauging the extent of property tax support for schools are:

1. Is personal property wholly or partially included in the tax base?

2. If partially included, what elements of personalty are taxable?

3. What is the ratio of assessments to actual market value? This information is essential in comparing tax rates.

4. How efficient is the assessing process and how comparable is it among and within the various units?

5. How are natural resources taxed (that is, under severance, personal property, or real property taxes)?

6. How extensively are local governments fragmented, and what nonproperty, if any, taxing powers do they have?

Moreover, referring to tax rates in mills, cents, and dollars is unnecessarily confusing. Ad valorem taxes should be expressed in percentages, so that the extent of the tax burden may be more readily grasped. By the time this obfuscating type of nomenclature has been superimposed upon fractional ratios of assessment -- either legally or illegally, or a mixture of both -- most citizens are hopelessly confused. Only when tax rates are expressed in percentages of full value can there be a reasonably clear understanding of relative tax burdens.

When citizen groups become sufficiently alert to demand clear terminology and full value assessment, a great advance will have been made in public understanding.

On the basis of the sample states mentioned in Section IV, we can critically consider the various alternatives that are being proposed for providing equal, or more nearly equal, educational opportunity. These alternatives fall into two major categories: attainment of equal educational opportunity through full state funding; and various devices for amelioration of present disparities.

Attainment of Equal Educational Opportunity Through Full State Funding

Viewed realistically, it is only through full state funding that equality of educational opportunity can be achieved. Several distinguished authorities have spoken forcibly to this effect.

The President's Commission on School Finance offered the following as its leading recommendations:

"We recommended that each State assume responsibility for determining

and raising on a statewide basis, the amount of funds required for education; for the allocation of these funds among the school districts of the State, and for the evaluation of the effective use of these funds."[1]

The late Professor James E. Allen, Jr., former New York State Commissioner of Education, and former U.S. Commissioner of Education, said in a Simpson lecture at Harvard University in 1971:

> "As the possibility of revisionary action comes nearer, the proposal for state assumption of all, or substantially all, of the local costs of elementary and secondary education is gaining support."[2]

Dr. James B. Conant, President Emeritus of Harvard University, and author of numerous books on education, proposed at the Denver meeting of the Education Commission of the States in 1968 that the localities' share of school financing be transferred to the states, and that local authority to levy taxes for schools be eliminated.

In giving the Simpson lecture at Harvard in 1972, Dr. Conant said:

> "....so I abandoned the old slogans about local control and looked at the realities of the current situation....
>
> "Tonight I shall present the case for the assumption by the state of all the costs. From what I have heard so far in this conference, I judge that logic is on the side of what I am presenting, but politics is not.....
>
> "The system of schools which I am tonight proposing would be financed by the state. There would be no local school taxes. The degree to which parents participated in making the critical decisions would depend on how the legislature arranged matters when it set up the new system. An essential part of what I am advocating would be the creation of many school districts, each with a school board elected by the voters of the district..."[3]

The desirability of full state funding has been recognized not only by the President's Commission on School Finance and by other outstanding authorities, but also by some state survey commissions. As indicated previously, The New York State Commission on .... Education recommended full state funding, and that all local options for supplementary school levies be terminated. The New Jersey Tax Policy Committee recommended "full" funding, but would have permitted local leeway for additional expenditures.

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1 Schools, People, and Money. The Need for Educational Reform. Final Report. 1972. p.xii.

2 Quoted on p. 111 of reference in following footnote.

3 "Full State Funding." In Financing Public Schools. A New England School Development Council Conference, held in cooperation with Harvard Graduate School of Education and Federal Reserve Bank of Boston. Cambridge: Federal Reserve Bank of Boston, 1972. p. 111-12.

A television poll conducted in New York, New Jersey, and Connecticut by Dr. George Gallup, Jr., in March, 1973, for the Regional Plan Association, showed that 64 percent of the respondents favored statewide taxing for public schools to replace local school taxes.

The State of Hawaii has already achieved full state funding.

Full state funding does not necessarily mean reliance on any one particular tax. It could be financed by a state property tax, by a state income tax, by some other impost, or by a combination of taxes. Or it could be obtained from general revenue as opposed to earmarked taxes.

From General Revenue

The widespread practice of earmarking special revenues for special functions is repugnant to persons who believe in orderly and responsible budget making. Certainly a government embarking upon a new or increased expenditure should be sufficiently responsible to see that revenues are adequately adjusted to meet the estimated additional cost. But that definitely does not necessitate tying a particular expenditure to a particular source of revenue. Such earmarking introduces artificial relationships. For example, within a few years the expenditure may double and the revenue triple; or the reverse, which is far more likely, may happen.

The new revenues, which are provided to take care of the increased expenditure, should go into the general fund and the expenditures should be made from it. If a general fund revenue surplus or deficit develops, the Legislature can consider a reduction of taxes in the one case, or a tax increase in the other, or can make some other revenue or expenditure adjustment. But in any case, the legislature would have an opportunity to appraise all expenditures and taxes in relation to each other and to the entire budget; and the possibility of bountiful funds for one function while other services are impoverished, would be obviated.

The inconsistency and injustice resulting from earmarked funds is illustrated by the following incident. Some years ago, the president of the Tax Institute, in addressing a conference, criticized the practice of earmarking. "That is all very well in theory, Mr. Buttenheim," said an official of the park department of a large city, "but we had a surplus when the school teachers weren't getting paid." From his standpoint this justified the use of earmarked funds.

From a State Property Tax

Although full funding by means of a state property tax would tend to relieve property tax disparities by reducing the school tax in some areas while increasing it in others, it would do nothing to relieve the sheer weight of the overall burden of property taxation, and the unfairness of using it as the residual burden bearer. A statewide property tax for schools is certainly preferable to school district taxes and, if the tax were administered at the state level, would also represent progress in achieving better and more uniform property tax administration. Hopefully, the state would take over the total job of assessing property, whether for schools or for other functions.

Nevertheless, the New York State Commission recommendation of a state tax rate for school purposes of approximately 2 percent seems oppressive.

From Other Revenues

The 1 percent state property tax rate, recommended by the New Jersey Committee, to be supplemented by other state taxes, is a far more reasonable and more equitable proposal. What the other tax sources should be depends upon the state's tax system and the potential it enjoys from untapped or underutilized revenue sources. For example, a state with valuable natural resources in minerals and timber can obtain substantial revenues from severance taxes; a manufacturing state from manufactures; or a trading state from commerce. Some states also have other special revenue resources. But the state's tax system should be planned as a whole and adjustments in it should be made on a basis of careful evaluation of competing demands and available revenues.

Amelioration of Present Disparities

Various methods have been suggested for amelioration of the present disparities. The following are some of the more important ones: larger school districts, greater state aid, district power equalizing, and local enrichment.

Larger School Districts

Taxing and educational inequalities resulting from fragmented local units have been discussed in Section III of this paper, and some of the quotations in preceding sections have presented statistical data concerning these inequities. The table in Section III which was quoted from the article by Post and Brandsma shows that financial disparities would be drastically reduced by having countywide unification and would be even further reduced by regional unification.

The consolidation procedure carried to its ultimate goal would, of course, be statewide financing, which would eliminate the disparities. Larger districts lessen, but do not wipe out, disparities, unless the financing is statewide. Any efforts to rearrange district lines to equalize their resources would constitute a hopeless task of gerrymandering. Even if it could be accomplished for a set date, it could not be maintained, other than in a static economy. The location of one new mammoth manufacturing plant, or a regional shopping center, could upset the whole arrangement.

Greater State Aid

Increasing state aid appears to be the method for meeting demands for more equal educational opportunity that is preferred by legislators. James A. Kelly, Program Officer in Public Education, The Ford Foundation, has delivered a blistering attack upon the attempts to equalize through state aid:

... explaining the question of why school expenditures are allocated in such a discriminatory fashion, there is no way to avoid the position of State governments in unraveling the story. States hold plenary power over that function of government we call public education. It is not a Federal function; legally it is a State responsibility.

. . . . . .

"For the past 40 years state governments have gotten away with claims that they are equalizing educational resources and educational resources and educational expenditures and sometimes even that they are equalizing the fiscal burden of paying for education because they adopt equalization schemes. Our position is that few if any of these so-called schemes equalize anything. We are prepared to defend that with volumes and volumes and stacks and stacks of evidence."[1]

District Power Equalizing

District power equalizing has been one of the favorite remedies of some reformers, and has been the most conspicuous method of equalizing in recent state legislation. This was recommended in the California and Connecticut reports discussed in the preceding section, and has also been tried in some states. However, it introduces an artificial concept. Rather than trying to achieve equality of treatment for children and for taxpayers, the equalizing effort would be concentrated on devices to make the financial power of each district per school child equal. This could easily run into absurdities in the case of very small districts and would also serve to bolster the independence of many inefficiently and uneconomically small districts.

It would do nothing to protect taxpayers from excessive zeal on the part of school boards in forcing up property tax rates (and assessments) in some districts; or to protect school children from extreme apathy on the subject of education in other districts, unless it was accompanied by stringent state regulations and also by equally stringent supervision of assessment ratios.

Local Enrichment

Local enrichment is a somewhat related device. It was aptly described by George Orwell many years ago. To paraphrase his classic dictum: Every school child should have equal educational opportunity, but some should have "more equal" opportunity than others.

The Particular Problems of the Central City

The central cities are faced with such acute problems and these problems are of such a complex nature that it is not possible to treat them adequately within a few pages; nor does the very considerable literature on the subject offer satisfactory solutions.

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1 U.S. Senate Select Committee on Equal Educational Opportunity. Equal Educational Opportunity -- 197.. Hearings. 1971. p. 6668.

The woes of the cities, particularly the old central cities, have been catalogued many times: loss of industry, shopping centers, and related activities -- giving rise to loss of jobs and of tax ratables --; loss of middle-income residents, influx of the poor, traffic congestion, pollution, crime, and other assorted ills. "Growing pains" are a part of our vocabulary, but it has remained for the cities to demonstrate the agony of shrinking pains -- in population, in jobs, and in a declining tax base.

Central cities also suffer, and for a long time have suffered, from a faulty and illogical allocation of functions under which they become the residual burden bearers of some acute national problems -- particularly in the field of welfare, but also in education, transportation, and crime. Failure to recognize welfare as a national responsibility and widely varying amounts of welfare relief in different areas have brought about a great influx of the needy into cities where grants are more generous. This influx not only increases relief burdens, but also generates additional expenditures in practically the entire gamut of city services.

Cities will not disappear. They are an essential part of our social and economic framework. They can become pleasant places for human beings to live; but there appears to be no likelihood that they will ever regain the dominance that they enjoyed in 1890, 1900, and 1910.[1] Until we face that reality and stop whistling in the dark, or perhaps triumpantly exclaiming that the tide has turned because an occasional industry, or a handful of elderly persons, or a disgruntled exurbanite, returns to central cities, we cannot deal effectively with the urban problems of today.

Impact of Full State Funding on the Cities

Many persons appear to equate full state funding in terms of complete reliance on the property tax. This is by no means inevitable, nor was it suggested in the report of the New Jersey Committee. It is claimed by some of these persons that full state funding would penalize central cities because of "municipal overburden." They point out, and correctly, that even though the taxable wealth per child is greater in the cities, they are not able to spend as large a portion of the property tax revenues on education, as can suburban areas, because of the enormous demands upon their resources occasioned by other functions. Therefore, if the state takes over the financing of education and raises the funds by a statewide property tax, urban residents would have to pay a higher tax than at present.

In a study of Inequities in School Finance by J. Burke and J. Callahan, it was pointed out that providing equal expenditures for all children under a statewide property tax would mean that almost twice as many central cities would receive lower expenditures from the state than they now do, and that in three-fourths of the cities in metropolitan areas, school taxes would rise.[2]

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1 When we consider the miserable working and housing conditions of the poor in those days, the rampant political corruption, and the murderous gangs roaming the streets, who could wish for their return? Let the skeptic read some of O'Henry's stories of life as it was lived and suffered in Old New York, or Lincoln Steffens' The Shame of the Cities for perspective on the urban past.

2 Paper presented at the 1971 Annual Convention of the American Academy for the Advancement of Science. Reprinted in Senate Select Committee on Equal Educational Opportunity, 1972

But such findings are based on the premise of reliance on earmarked property taxes for school finance. As indicated above, this by no means follows. In those states already heavily penalizing property owners, equalizing on the basis of property taxation, might compound the woes of the property taxpayers, who are already protesting unfair burdens. If a state takes over school financing, it should not rely entirely, perhaps not even mainly, on the property tax.

The following conclusion concerning the impact of full state funding was reached by the Temporary State Study Commission for New York City:

> "When education costs are shifted from a local property tax to a combination of the State sales and income taxes, the amount of tax relief experienced tends to decrease for lower income families (up to the $6,000 income level) as family size increases. Furthermore, the size of the tax decrease (for any one income level and family size) tends to be smaller in this case than with the alternative of shifting education cost to a State personal income tax....."

> "From this analysis it is clear that the transfer of welfare would bring real relief to both the City and most of the taxpayers. In the case of education the outcome depends on the State taxes used and the income level and family size of the taxpayer. Important to note is that the adoption of a State property tax to finance education would increase the tax burden on the City and its residents."[1]

However, the argument that full state funding of public education by substitution of a statewide property tax for all or part of the revenue now derived from local school property taxes would be injurious to the central city, although advanced by thoughful and informed persons, should perhaps be qualified somewhat.

Special Property Tax Problems in the Cities. The property tax issue is a very complex one. There are many angles to be considered. There is first of all the matter of assessment. Although present methods of gauging assessment data are not sufficiently accurate to be conclusive, there are grounds for believing that the ratio of assessments to market values is customarily higher in the cities than in suburban or rural areas. There are two -- in some cases, three - basic underlying reasons. The first is that, generally speaking, the larger units are able to afford more highly trained assessing personnel and can utilize the most efficient assessing tools. A second reason is that fiscal pressures are so great in the cities that they are forced to assess at a very high ratio, which may be more than 100 percent of full market value. For example, see the quotations from the A.D. Little, Inc. study on pages 10-13 of this paper.

To some extent overassessment may result from the lack of comparative periodic land use data, and the resulting inability to get a clear perspective on changing urban land use trends. It is believed that with such data it

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1 New York City: Economic Base and Fiscal Capacity -- Summary. April, 1973. p. 66 and 67.

would become apparent much land in the cities is overassessed and overpriced, as the potential uses for it are for low income housing and open space -- neither of which would justify such high prices. Moreover, the writedown policy of the federal government in urban renewal for the past third of a century has bolstered landowners in overpricing and assessors in overassessing.

In some cities there is a third consideration confusing the issue. In some states the taxation of personal property is still permitted; and such property, particularly intangible, is likely to be more concentrated in the cities. Other states, however, have recognized that taxpaying ability represented by the ownership of such property can be more efficiently and more equitably taxed in other ways, particularly on the basis of yield.

If the states were to move more actively into the field of real property taxation by imposing a state property tax for all or part of state educational costs, based on state assessments (for both state and local property assessments); or by instituting statewide assessment of all real estate (even though no state tax were imposed); or even by taking over the assessment of all real property, other than single-family homes, there are reasons to believe that the present disparities in ratios of assessment in rural, suburban, and central city areas would be substantially reduced.

Certainly, if a state imposes a property tax it should take over property tax administration. This has been advocated by some outstanding authorities on property taxation. Administration at the state level would make possible employment of highly trained assessors and the use of the most advanced assessing techniques and tools throughout the entire state.

State administration of the tax would make it possible not only to eliminate assessing disparities between the local units, but also within them. Such a system might well bring about a reduction of assessments in many sections of the central cities, thereby aiding in preventing blight and aiding rehabilitation. (See A.D. Little Inc. study) City officials have been heard to complain that downtown properties, or city property in general, were overassessed, and that they were powerless to do anything about it in the face of the city's urgent fiscal needs.

With the continuing exodus of industry, commerce, and middle income residents from the core cities, it is inevitable that actual property values would fall. (Values that are kept so high that the willing buyer and the willing seller cannot come to terms are fictitious rather than actual.) That city land values are being artificially bolstered has been indicated. Notwithstanding fantastic increases in land values in certain strategic areas of the city, a sober look at actual developments makes it appear that much of the land in the older central cities will have no real use other than for low-income housing and open space. Even use for parking facilities may become largely taboo in the face of the rapidly developing ecological consciousness and the realization of the pollution and congestion created in the city by the use of private motor vehicles.

It would seem that this situation offers an opportunity to open up the city with less congested residential areas, and less emphasis on high rise apartment buildings and with greater space devoted to parks and recreation. Yet neither of these uses is feasible on high-priced land.

If the federal government ever assumes its responsibility for conducting periodic and comparative urban land uses censuses, it will become possible to evaluate the economic resources of the cities more realistically. With such an evaluation, coupled with accurate, realistic, and uniform assessment of property throughout the state, we may well find urban real estate values showing a relative decline; and the rehabilitation of residential property increased. Therefore, under such a system, the so-called "municipal overburden" resulting from state assumption of educational costs, even if financed largely by property taxation, might be considerably diminished.

But why should property bear the entire, or even the major, load? Under a system of financing from the general revenue fund, the entire revenue resources of the state could be utilized. The tax system and the expenditures therefrom could be viewed as a whole.

Misallocation of Functions

A further handicap in central cities is that education is likely to be more costly there -- partly because many of the school children in the city need some special help. This has been widely recognized and special state aid for such purposes has been advocated.

Tied in with this problem, the issue of federal assumption of welfare costs again raises its head. If the federal government assumed -- what many persons consider to be -- its rightful obligation to finance welfare, states and cities would obtain substantial relief. With all the administrative and Congressional concern over property tax burdens and the fiscal plight of the cities, it appears strange that leaders of both branches of government are so successful in being blind and deaf on this issue. A distinguished observer of the governmental scene has said:

> "....Suffice it to say here that there is growing agreement across the political spectrum that indeed federal revenues must and will be shared and that welfare should and must be federalized...."[1]

We may have passed the peak of the problem in educating the economically and socially disadvantaged child. (We have not yet, however, given sufficient expertise to the problem of the physically and psychologically disadvantaged child.) The falling birth rate will affect this problem in two ways. There will be fewer children to education. Moreover, and more importantly, the ones that are born are likely to receive more adequate parental care in the important early years. Parents, whether rich or poor, who have two or three children can give them greater care and attention than parents of eight or ten. Moreover, with the smaller families their standard of living will increase and they can give the children a more attractive home life and better nutrition. As the health, self-respect, and morale of the parents increase, we can expect improvement in the child's attitude and his capacity for learning.

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1 William G. Colman. "Financing Schools and Other Public Services." The Urban Lawyer. Fall, 1972. p. 624.

Discrimination Against the Cities in State Aid

The discriminatory nature of state aid, originally designed to help small rural units and now discriminating against the cities, has been emphasized by Professor Seymour Sacks (with David Ranney and Ralph Andrew) in a recent study.

> ".....The system of state aid for education, having failed to adjust is still designed particularly to aid the small rural and growing suburban school systems. The system of state aid in effect is based on the supposition that the large cities still occupy the superior economic and fiscal position of an earlier period...."

> "....The large cities failed to keep up with national economic growth while having to respond to that growth. This has had various manifestations, one of which has been their inability to finance adequately public elementary and secondary education."

> "....Further there is a failure to understand the process by which the states have operated under a 'save harmless' philosophy wherein additional aid to the large cities has been made conditional on no loss in aid to other school systems."

Some possible developments that may help to correct the special educational difficulties faced by cities are:

1. Court decisions mandating consolidation of metropolitan area districts.
2. More accurate assessments based on a realistic appraisal of potential urban land uses.
3. Special state, and possibly federal, aid to educate the disadvantaged child, whether the disadvantage results from social and economic, or physical and psychological handicaps.
4. Federal assumption of welfare costs.
5. Full state funding of education financed from the state's general revenue fund.

VI. PROGNOSIS

There have been so many dramatic changes in recent years, that it would be fool-hardy to attempt a forecast of the future with any pretence of certitude. Nevertheless, in viewing the current turbulence in property taxation and school finance, and all the swirling cross currents of other developments, there may be some value in attempting a look ahead into the near future.

Property Taxation

With respect to property taxation, it appears that we can anticipate the following:

1. Continuance of legal activism
2. Further court decisions having an impact on the tax
3. Continuation of the property tax
4. Continuation of the tax on residential property
5. Increasing state interest in, and responsibility for, improvement in property tax administration
6. Probability of increasing concessions to special groups
7. Probably substantial administrative reforms, but limited changes of a substantive nature

With one or two exceptions, these developments appear to be desirable. With respect to the possibility of property tax relief, however, one tends to be dubious. Although words of sympathy for the overburdened property taxpayer are frequently heard in governmental circles, there is little in the current scene to indicate any real effort to lighten the burden on the generality of taxpayers. On the contrary, the exemptions and concessions to special groups that are being so freely offered may very well add to the general burden.

A new development in the property tax area was the introduction on March 15, 1973, of S. 1255, The Property Tax Relief and Reform Act of 1973, which was sponsored by Senators Edmund S. Muskie and Charles H. Percy. The bill sets forth various recommendations for improving property tax administration, largely based on the 1963 ACIR study, which has been previously cited in this paper. It proposes to set up in the Treasury Department an Office of Property Tax Relief and Reform. Using a carrot and stick approach, the states would be offered federal funds equal to one-half the cost of property tax relief distributed to the poor and elderly; but on condition that the states show progress toward reform of their property tax administration.

In a statement made at hearings on the bill, Bernard F. Shadrawy, President of the International Association of Assessing Officers, made some telling criticisms of the proposed measure.

> "A great deal remains to be done, of course, but I am convinced that we are moving in the right direction and that state and local governments are beginning to assume the initiative for improving the quality of assessment administration. As to whether or not the federal government should play a leading role in this process, I must confess that I am doubtful. While Senate Bill 1255 does state a number of desirable goals, I am not certain that the more realistic of these goals cannot be achieved without the extensive federal involvement contemplated in this bill.

"Many forces are operating that will ease the challenge. There has been more constitution writing since 1955 than at any time since Reconstruction, and issues such as abortion and divorce law reform involving profound considerations of morality and law are increasingly common. The dynamics of labor union organization among school employees has produced a statewide union in New York and is likely to do so elsewhere; this trend cannot long keep statewide bargaining off the agenda, and with it many of the issues of the relationship of state to local powers and privilege. There has been a literal explosion of interest and legislative proposals that conceive of states as the logical urban or regional governing instrument; the role of states in land-use decisions, for example, is undergoing rapid evolution and President Nixon's proposed special revenue sharing for education and social services could greatly strengthen states as prime managers and funding agents.

"The pervasive mood of withdrawal from egalitarian reform through national politics and federal bureaucracy may be the other side of the face of opportunity for the states to serve once again as diverse laboratories of change in a vital federal system...."[1]

Federal and State Roles in Financing Education

Judging from the conclusions reached by the prestigious Advisory Commission on Intergovernmental Relations (in response to President Nixon's request for a study of a proposal for a major federal program of property tax relief conditioned on expanded state financing of education) that "despite the seriousness of the twin problems indicated above, a massive new Federal program designed specifically to bring about property tax relief is neither necessary nor desirable," it appears that the role of the federal government in financing education will continue to be a limited one.

Conversely, the indications point to much greater activity in this field for the states. This will manifest itself in increased state financial support, continued concern over equalization of educational opportunity (particularly if prodded by the courts), and increasing state concern with the quality of educational services and the development of methods for evaluating that quality. There will probably be increasing state, and possibly federal, aid to urban schools.

Impact of Economic Developments

The falling birth rate will offer an opportunity to improve the quality of educational services, unless any financial advantage resulting from fewer school children is wiped out by inflationary impacts.

We can also expect increasing public antagonism to the economic-growth-at-any-cost concept; and drastic changes having an impact on local government patterns, particularly in the suburbs. There will be more state control of land uses. Will such changes lessen or aggravate fiscal disparities?

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1 National Civic Review. April, 1973. p. 182-83.

At the same time, there are other goals or requirements in the bill that, While theoretically desirable, seriously underestimate the time, money and conceptual difficulties involved."

Also at the hearings, John Shannon, Assistant Director, Advisory Commission on Intergovernmental Relations, made the following comments:

"Should the national government condition its federal tax relief grants to a state showing of assessment reform? It is quite understandable that frustrated property tax reformers would seize upon the popular tax relief issue as their 'lever' for forcing states to reform their local property tax assessment systems.

"I would recommend that the Subcommittee divorce the issue of property tax relief from that of assessment reform. Low income families should not be used as the 'hostages' by the federal government for affecting state assessment reforms. This 'federal stick' approach also reinforces the use of those who are opposed to any federal involvement in the property tax area. They argue that once the federal government moves into the property tax area, there is the irresistible temptation to impose coercive guidelines on state and local officials.

"There is also a certain practical objection to this plan for denying federal property tax relief aid to states that fail to measure up to the reform guidelines set forth in Senate Bill 1255. It might be difficult for the federal administrator to obtain sufficient political support for rigorous enforcement of this carrot and stick approach to the property tax."

Viewing the respective federal and state roles from another angle, we find keen observers of state government seeing in the wave of court decisions and the current legislative interest in property taxation and school finance reform an "acid test" for the states. In writing about "School Finance Reform: Challenge for the States," Jerome Zukosky says:

"This is an enormous agenda. Can it be contained within state governments that professional observers have long bemoaned as archaic and ill-suited to the challenges of contemporary society?

"An experienced analyst, John E. Bebout, in a recent paper entitled "The Emerging State Governments," indicates that perhaps this "acid test" is just what the states need. It forces politicians and voters to debate issues of equity and comprehensive interest that since the Depression have focused attention on Washington, leaving the affairs of states a backwater in which flourish meagre talents, special-interest legislation, and much apathy and ignorance, not least among scholars. Equalizing educational tax burdens and expenditures taps the deepest reservoirs of the capacity for leadership, although it may be that the courts will have to supply the moral backbone.